

May 18, 1993

**NATURAL RESOURCES — C.S.H.B. 2043**

**JURISPRUDENCE — S.B. 1496, H.B. 2826, H.B. 722, H.B. 38, H.B. 1494, H.B. 1622, H.B. 1108, H.B. 2042, H.B. 2825, H.B. 2512, H.B. 2511, H.B. 2073, H.B. 1987, C.S.H.B. 1429, C.S.H.B. 301, C.S.H.B. 1691, C.S.H.B. 1444, H.B. 245 (Amended), H.B. 831 (Amended), H.B. 1433 (Amended), H.B. 957 (Amended), H.B. 1498 (Amended), H.B. 1434 (Amended), H.B. 1630 (Amended), H.B. 2458 (Amended), H.B. 1285 (Amended)**

**INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — H.C.R. 3, C.S.H.B. 1010**

**ECONOMIC DEVELOPMENT — C.S.H.B. 2055**

**CRIMINAL JUSTICE — C.S.H.B. 1493, C.S.H.B. 24, C.S.H.B. 567, H.B. 1056, H.B. 637, H.B. 537**

**SEVENTIETH DAY**  
(Wednesday, May 19, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Dr. Raymond D. Kiser, Pastor, Northwest Hills United Methodist Church, Austin, offered the invocation as follows:

Dear God, in the midst of this arena of competing and conflicting human interests please help this Senate of Texas to deliberate and legislate in ways that promote practical justice, efficient, yet compassionate government, and higher levels of human well-being—not merely for the present day, but for generations yet to come. In and beyond whatever may be accomplished here, let Your will be known and done. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**CO-AUTHOR OF SENATE BILL 7**

On motion of Senator Ratliff and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 7.

**CO-AUTHOR OF SENATE BILL 292**

On motion of Senator Rosson and by unanimous consent, Senator Moncrief will be shown as Co-author of S.B. 292.

**CO-AUTHOR OF SENATE BILL 330**

On motion of Senator Haley and by unanimous consent, Senator Shapiro will be shown as Co-author of S.B. 330.

**CO-AUTHOR OF SENATE BILL 373**

On motion of Senator Zaffirini and by unanimous consent, Senator Madla will be shown as Co-author of S.B. 373.

**CO-AUTHOR OF SENATE BILL 399**

On motion of Senator Madla and by unanimous consent, Senator Zaffirini will be shown as Co-author of S.B. 399.

**CO-AUTHOR OF SENATE BILL 642**

On motion of Senator Ellis and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 642.

**CO-AUTHOR OF SENATE BILL 1371**

On motion of Senator Parker and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 1371.

**CO-AUTHOR OF SENATE BILL 1409**

On motion of Senator Parker and by unanimous consent, Senator Harris of Tarrant will be shown as Co-author of S.B. 1409.

**CO-AUTHOR OF SENATE BILL 1410**

On motion of Senator Parker and by unanimous consent, Senator Harris of Tarrant will be shown as Co-author of S.B. 1410.

**CO-AUTHOR OF SENATE RESOLUTION 814**

On motion of Senator Barrientos and by unanimous consent, Senator Armbrister will be shown as Co-author of S.R. 814.

**CO-SPONSOR OF HOUSE BILL 1214**

On motion of Senator Harris of Tarrant and by unanimous consent, Senator Madla will be shown as Co-sponsor of H.B. 1214.

**GUEST PRESENTED**

Senator Shelley was recognized and introduced to the Senate his daughter, Elizabeth.

The Senate welcomed Elizabeth.

(Senator Truan in Chair)

**BILLS AND RESOLUTIONS SIGNED**

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**H.B. 132      H.C.R. 121**  
**H.B. 1096    H.C.R. 134**  
**H.B. 1278**

**MESSAGE FROM THE HOUSE**

House Chamber  
May 19, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 97**. The House conferees are: Representatives Oakley, Chair; Bailey, Granoff, Gutierrez, and Haggerty.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 405**. The House conferees are: Representatives A. Smith, Chair; Oliveira, Smithee, Shields, and Raymond.

The House refused to concur in Senate amendments to **H.B. 865** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Yost, Chair; Turner of Coleman, Bosse, Combs, and Lewis.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 532**. The House conferees are: Representatives Hightower, Chair; Place, Gray, Granoff, and Turner of Harris.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 798**. The House conferees are: Representatives Campbell, Chair; Chisum, Hamric, Gutierrez, and Longoria.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 1067**. The House conferees are: Representatives Place, Chair; Hightower, Gray, Greenberg, and Goodman.

The House refused to concur in Senate amendments to **H.B. 1116** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Stiles, Chair; Hightower, Place, Telford, and Ramsay.

The House refused to concur in Senate amendments to **H.B. 2058** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Junell, Chair; Hunter of Nueces, Ogden, Bomer, and Hernandez.

The House refused to concur in Senate amendments to **H.B. 253** and has requested the appointment of a conference committee to consider the

differences between the two Houses. The House conferees are: Representatives Place, Chair; Greenberg, Turner of Harris, Puente, and Goodman.

The House refused to concur in Senate amendments to **H.B. 259** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Giddings, Chair; Marchant, Romo, Patterson, McCoulskey.

The House has concurred in Senate amendments to **H.B. 1278** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1368** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 474** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 563** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 681** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1096** by a non-record vote.

The House has adopted the conference committee report on **H.B. 991** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 1081** by vote of 72 Ayes, 55 Noes, 4 Present-not voting.

The House has concurred in Senate amendments to **H.B. 772** by vote of 139 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 384** by vote of 135 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.J.R. 23** by vote of 140 Ayes, 0 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1962** by vote of 125 Ayes, 9 Noes, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1450** by vote of 138 Ayes, 1 No, 2 Present-not voting.

The House has concurred in Senate amendments to **H.B. 1211** by vote of 141 Ayes, 0 Noes, 2 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**GUEST PRESENTED**

Senator Carriker was recognized and introduced to the Senate Marilyn Lancaster of Snyder, State President of the Texas Junior College Teachers Association.

The Senate welcomed Ms. Lancaster.

**GUESTS PRESENTED**

Senator Brown was recognized and introduced to the Senate Judd Samuel, who ranked number three of 360 senior class students from Memorial High School in Harris County competing in an essay contest and was chosen Outstanding Student by the Student State Leadership Conference of Harris County. Mr. Samuel was accompanied by his teacher, Joyce Roberta Miller.

The Senate welcomed its guests.

**CAPITOL PHYSICIAN**

Senator Harris of Tarrant was recognized and presented Dr. J. L. Eidson of Weatherford as the "Doctor for the Day."

The Senate welcomed Dr. Eidson and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**HOUSE BILL 7 REREFERRED**

On motion of Senator Henderson and by unanimous consent, H.B. 7 was withdrawn from the Committee on Economic Development and was rereferred to the Committee on Jurisprudence.

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

- H.B. 706 to Committee on Finance.
- H.B. 1970 to Committee on Natural Resources.
- H.B. 2223 to Committee on Finance.
- H.B. 2284 to Committee on State Affairs.
- H.B. 2310 to Committee on State Affairs.
- H.B. 2371 to Committee on Education.
- H.B. 2385 to Committee on Health and Human Services.
- H.B. 2407 to Committee on Intergovernmental Relations.
- H.B. 2428 to Committee on Natural Resources.
- H.B. 2480 to Committee on Jurisprudence.
- H.B. 2485 to Committee on Health and Human Services.
- H.B. 2510 to Committee on Education.
- H.B. 2516 to Committee on Finance.
- H.B. 2534 to Committee on Economic Development.
- H.B. 2562 to Committee on Education.
- H.B. 2563 to Committee on Education.
- H.B. 2605 to Committee on Natural Resources.

**H.B. 2644** to Committee on State Affairs.  
**H.B. 2663** to Committee on Intergovernmental Relations.  
**H.B. 2790** to Committee on Intergovernmental Relations.  
**H.B. 2854** to Committee on Intergovernmental Relations.  
**H.B. 2860** to Committee on Jurisprudence.  
**H.B. 2869** to Committee on Natural Resources.  
**H.B. 2870** to Committee on Natural Resources.  
**H.B. 2871** to Committee on Jurisprudence.  
**H.B. 2874** to Committee on Natural Resources.

**MESSAGE FROM THE ATTORNEY GENERAL**

The following Message from the Attorney General was read and was referred to the Committee on Nominations:

Office of the Attorney General  
State of Texas

May 18, 1993

The Honorable Bob Bullock  
Lieutenant Governor of Texas  
One Capital Square, Suite 200  
Austin, Texas

Dear Governor Bullock and Members of the 73rd Senate: I am hereby requesting the advice and consent of the Texas Senate regarding the appointment of Bill Warnick to the School Land Board.

Thank you for your consideration of this matter. Please let me know if I can be of further assistance.

Sincerely,

/s/Dan Morales  
Attorney General

**CONFERENCE COMMITTEE ON HOUSE BILL 1374**

Senator Bivins called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 1374** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **H.B. 1374** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chair; Armbrister, Zaffirini, Ellis, and Ratliff.

(President in Chair)

**SENATE BILL 426 WITH HOUSE AMENDMENT**

Senator Sibley called S.B. 426 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment No. 1**

Amend S.B. 426 in Section 1, in added Section 61.506, Education Code (engrossed version, page 2, between lines 2 and 3), by adding Subsections (f), (g), and (h) to read as follows:

(f) Before the end of the fiscal biennium that begins on September 1, 1993, the state auditor shall:

(1) review, in accordance with Chapter 321, Government Code, the three pilot programs established under this section; and

(2) send a copy of the review to the comptroller.

(g) On September 1, 1995, the three pilot programs established under this section are abolished.

(h) This section expires January 1, 1996.

The amendment was read.

Senator Sibley moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 426 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Ratliff, Bivins, Zaffirini, and Lucio.

**SENATE BILL 674 WITH HOUSE AMENDMENT**

Senator Moncrief called S.B. 674 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment No. 1 on Third Reading**

Amend S.B. 674 as follows:

(1) On page 8, strike lines 5 through 14.

(2) On page 8, line 15, strike the number "(4)" and insert the number "(1)".

(3) On page 8, line 21, strike the number "(5)" and insert the number "(2)".

(4) On page 8, line 25, strike the number "(6)" and insert the number "(3)".

(5) On page 9, line 1, after the word "complaints" strike the semicolon and the word "and" and insert a period.

(6) On page 9, strike lines 2 through 4.

The amendment was read.

Senator Moncrief moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 674 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Parker, Ellis, Carriker, and Truan.

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
May 19, 1993

TO THE SENATE OF THE SEVENTY-THIRD LEGISLATURE,  
REGULAR SESSION:

On January 21, 1993, I submitted the name of Dr. Clay Salyer of Dublin for reappointment to the Texas State Board of Chiropractic Examiners.

I hereby withdraw Dr. Salyer's nomination for this board and request that the Senate return his appointment.

Respectfully submitted,

/s/Ann W. Richards  
Governor of Texas

#### SENATE BILL 1398 WITH HOUSE AMENDMENT

Senator Harris of Tarrant called S.B. 1398 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend S.B. 1398 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to abolishing the County Criminal Court No. 5 of Tarrant County and to creating the Tarrant County Criminal Court of Appeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.2221(b), Government Code, is amended to read as follows:

(b) Tarrant County has the following county criminal courts:

- (1) County Criminal Court No. 1 of Tarrant County;
- (2) County Criminal Court No. 2 of Tarrant County;
- (3) County Criminal Court No. 3 of Tarrant County;
- (4) County Criminal Court No. 4 of Tarrant County;
- (5) ~~County Criminal Court No. 5 of Tarrant County;~~
- ~~(6)~~ County Criminal Court No. 6 of Tarrant County;
- (6) ~~(7)~~ County Criminal Court No. 7 of Tarrant County;
- (7) ~~(8)~~ County Criminal Court No. 8 of Tarrant County;
- (8) ~~(9)~~ County Criminal Court No. 9 of Tarrant County; and
- (9) ~~(10)~~ County Criminal Court No. 10 of Tarrant County.

SECTION 2. Section 25.2221, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Tarrant County has one county criminal court of appeals, the County Criminal Court of Appeals of Tarrant County.

SECTION 3. Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.2225 to read as follows:

Sec. 25.2225. TARRANT COUNTY CRIMINAL COURT OF APPEALS PROVISIONS. (a) A county criminal court of appeals in Tarrant County has concurrent jurisdiction in the county of all appeals from criminal convictions for violation of state law or municipal ordinances of municipalities located in the county in justice courts, municipal courts, or municipal courts of record in the county.

(b) A judge of a county criminal court of appeals must:

- (1) be a citizen of the United States and of this state;
- (2) have been a practicing attorney of this state or a judge of a court of this state for the four years immediately preceding appointment or election; and

(3) have resided in the county for the two years immediately preceding appointment or election.

(c) A judge of a county criminal court of appeals shall be paid an annual salary that is equal to an amount that is \$1,000 less than the total annual salary, including supplements and salary increases, received by a district judge in the county. The salary shall be paid out of the county treasury by the commissioners court.

(d) A judge of a county criminal court of appeals may not engage in the private practice of law and shall devote the judge's entire time to the duties of the office.

(e) A county criminal court of appeals or its judge may issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases in which the offense charged is within the jurisdiction of the court or any court or tribunal of inferior jurisdiction. The court or its judge may punish for contempt as prescribed by general law.

(f) The commissioners court, in the manner provided by law for setting terms of county courts, shall set at least four terms of court each year for each county criminal court of appeals.

(g) Practice in a county criminal court of appeals and appeals from a county criminal court of appeals are as provided by law for county courts.

(h) A special judge of a county criminal court of appeals may be appointed or elected in the manner provided by law for the appointment or election of a special county judge.

(i) The county sheriff, in person or by deputy, shall attend a county criminal court of appeals as required by the judge.

(j) The official court reporter of a county criminal court of appeals is not required to take testimony in a case in which neither party nor the judge demands it. If the court reporter takes testimony, the clerk shall collect a \$3 fee as costs in the case. The fee shall be paid into the county treasury.

(k) The official court reporter of a county criminal court of appeals is entitled to receive the same fees and salary as a district court reporter and shall perform the same duties and take the oath of office as provided by law for district court reporters.

(l) Sections 25.0003(a) and (c) do not apply to a county criminal court of appeals in Tarrant County. Section 25.0007 does not apply to the County Criminal Court of Appeals of Tarrant County.

SECTION 4. This Act takes effect January 1, 1995.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Harris of Tarrant and by unanimous consent, the Senate concurred in the House amendment to S.B. 1398 by a viva voce vote.

#### **SENATE BILL 1208 WITH HOUSE AMENDMENT**

Senator Montford called S.B. 1208 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

##### **Amendment No. 1**

Amend S.B. 1208 by inserting the following between the words "fees" and "shall" on line 23 of page 5:

"and in the possession of the State of Texas"

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to S.B. 1208 by a viva voce vote.

#### **SENATE BILL 614 WITH HOUSE AMENDMENT**

Senator Montford called S.B. 614 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend S.B. 614 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to definitions and penalties and the issuance of certain licenses under the Texas Commercial Driver's License Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes) is amended by adding Section 2A to read as follows:

Sec. 2A. REFERENCES TO STATUTES AND FEDERAL REGULATIONS. Unless expressly provided otherwise:

(1) a reference in this article to any portion of a statute applies to all reenactments, revisions, and amendments of the statute; and

(2) a reference in this article to any portion of Title 49, Code of Federal Regulations, applies to all revisions and amendments of that title.

SECTION 2. Sections 3(7), (19), (20), and (24), Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), are amended to read as follows:

(7) "Commercial motor vehicle" does not include:

(A) a vehicle that is controlled and operated by a farmer; and used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and not used in the operations of a common or contract motor carrier; and used within 150 miles of the person's farm;

(B) a fire-fighting or emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions, whether operated by an employee of a political subdivision or by a volunteer fire fighter;

(C) a military vehicle, when operated for military purposes by military personnel, including any active duty military personnel, members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians; ~~or~~

(D) a recreational vehicle that is driven for personal use;   
or

(E) a vehicle that is owned, leased, or controlled by an air carrier, as defined by Section 1(e), Chapter 344, Acts of the 49th Legislature, 1945 (Article 46c-1, Vernon's Texas Civil Statutes), and that is driven or operated exclusively by an employee of the air carrier only on the premises of an airport, as defined by Section 1(a), Municipal Airports Act (Article 46d-1, Vernon's Texas Civil Statutes), on service roads to which the public does not have access.

(19) "Gross combination weight rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle~~;~~ ~~the registered gross combination weight, or the actual~~

~~weight, whichever is greatest]. If there is no manufacturer's specified value, gross combination weight rating [The actual weight] is determined by adding the GVWR of the power unit and the total weight of the towed unit or units and any load on a towed unit.~~

(20) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the ~~[maximum] loaded weight of a single vehicle[; registered gross weight, or the actual weight, whichever is greatest. The actual weight is the actual gross weight of the single unit and any load on the unit].~~

(24) "Out-of-service order" means;

(A) a temporary prohibition against driving a commercial motor vehicle issued as provided by Section 26 of this article or as provided by the law of another state ~~or 49 C.F.R. Part 383.5; or~~

~~(B) a declaration by the Federal Highway Administration or an authorized enforcement officer of a state or local jurisdiction that a driver, commercial motor vehicle, or motor carrier operation is out of service under 49 C.F.R. Part 383.5.~~

SECTION 3. Section 8, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), is amended by adding Subsection (c) to read as follows:

~~(c) In addition to any penalty imposed under this Act, an employer who violates Subsection (b) of this section or an out-of-service order may be penalized or disqualified under 49 C.F.R. Part 383.~~

SECTION 4. The Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes) is amended by adding Section 12A to read as follows:

Sec. 12A. RESTRICTED COMMERCIAL DRIVER'S LICENSE. (a) In this section:

(1) "Secretary" means the United States secretary of transportation.

(2) "Highway administration" means the United States Department of Transportation Federal Highway Administration.

(3) "Farm-related service industry" has the meaning assigned by the secretary or the highway administration under the federal Commercial Motor Vehicle Safety Act of 1986.

(b) If the department is authorized under the federal Commercial Motor Vehicle Safety Act to grant the waiver, the department by rule may waive the knowledge and skills tests required by Section 11 of this article and provide for the issuance of a restricted commercial driver's license to an employee of a farm-related service industry.

(c) In granting a waiver under this section, the department is subject to any condition or requirement established for the waiver by the secretary or the highway administration.

(d) In addition to any restriction or limitation imposed by this article or the department, a restricted commercial driver's license issued under this section is subject to any restriction or limitation imposed by the secretary or the highway administration.

SECTION 5. Section 25, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), is amended by adding Subsection (n) to read as follows:

(n) In addition to any penalty imposed under this Act, a person convicted of an offense under Section 10(a)(5) of this Act may be penalized or disqualified under 49 C.F.R. Part 383.

SECTION 6. Section 31(b), Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), is amended to read as follows:

(b) The department shall give all out-of-state convictions, disqualifications, and denials full faith and credit and treat them for sanctioning purposes under this article as if they occurred in this state. The department may include on a person's driving record convictions, disqualifications, and denials that occurred in another state.

SECTION 7. This Act takes effect September 1, 1993.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Montford and by unanimous consent, the Senate concurred in the House amendment to S.B. 614 by a viva voce vote.

#### **SENATE BILL 274 WITH HOUSE AMENDMENT**

Senator Barrientos called S.B. 274 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

##### **Amendment No. 1**

Amend S.B. 274 by adding a new Subsection (e) to Section 341.068 of the Health and Safety Code to read as follows:

(e) This section applies only to facilities that accommodate more than 10,000 persons at a time.

The amendment was read.

Senator Barrientos moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 274 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chair; Rosson, Nelson, Truan, and Carriker.

#### **SENATE BILL 440 WITH HOUSE AMENDMENT**

Senator Brown called S.B. 440 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**

Amend S.B. 440 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the Parks and Wildlife Department's enforcement powers, the seizure and disposal of certain aquatic life and wildlife, and the disposition of fines.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Sections 12.106(a) and (c), Parks and Wildlife Code, are amended to read as follows:

(a) Any peace officer of this state or a political subdivision of this state or an authorized employee of the department who arrests a person for a violation of this code or a regulation of the commission adopted under this code may deliver to the alleged violator a written notice to appear before the justice court, county court, or another court having jurisdiction of the offense not later than 15 days after the date of the alleged violation.

(c) A person who fails to appear for a violation of this code or a regulation of the commission adopted under this code within the time specified in the written notice commits an offense that is a Class C Parks and Wildlife Code misdemeanor, and a warrant for the arrest of the alleged violator may be issued.

**SECTION 2.** Section 12.107, Parks and Wildlife Code, is amended to read as follows:

**Sec. 12.107. REMISSION OF FINES.** (a) A justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of this code or a regulation of the commission adopted under this code ~~[any law relating to the protection and conservation of wild birds, wild fowl, wild animals, fish, oysters, and other wildlife]~~ shall send the fine to the department within 10 days after the date of collection. A statement containing the docket number of the case, the name of the person fined, and the section of this code or the regulation ~~[the law]~~ violated must accompany the remission of the fine.

(b) The amount of the fine to be remitted to the department is 80 percent in county court or higher court cases and 85 percent in justice court cases.

**SECTION 3.** Sections 12.109(b), (c), and (f), Parks and Wildlife Code, are amended to read as follows:

(b) The confiscated aquatic life shall be sold to the highest of three bidders. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund No. 900 pending the outcome of the action taken against the person charged with illegal possession. If bids cannot be obtained, the department, if practicable, shall donate the aquatic life to a charitable institution, hospital, or other person.

(c) Unless the person is found guilty, pleads guilty or nolo contendere, or is placed on deferred adjudication, all the proceeds shall be paid to the owner of the aquatic life.

(f) The department and an enforcement officer of the department who acts under this section are not liable in any civil action for the seizure, ~~[or] sale, or donation~~ of aquatic life or for the order to return oysters to a public reef.

SECTION 4. Section 12.110, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) The department and an enforcement officer of the department who acts under this section are not liable in any civil action for the seizure, sale, or donation of a game bird, other fowl, animal, or game fish.

SECTION 5. Section 65.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.002. APPLICATION. Except for regulation of those populations listed on the United States List of Endangered Wildlife (50 C.F.R. Part 17), special permits issued under Chapter 43 of this code, revocation or suspension of licenses or permits under Subchapter F, Chapter 12, of this code, or contracts for the removal of reptiles entered into under Section 81.404~~[-as amended;-]~~ of this code, this chapter governs the taking, possession, and sale of alligators to the exclusion of other regulatory and licensing laws.

SECTION 6. Section 65.009, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.009. SEIZURE AND DISPOSAL OF ALLIGATORS. (a) A game warden or any other peace officer may seize an alligator, alligator hide, alligator egg, or any part of an alligator if he has probable cause to believe it was taken, possessed, sold, or purchased in violation of this chapter or of a regulation of the commission. An alligator, alligator hide, alligator egg, or alligator part seized under this section may be sold by the department to the highest of three bidders, and the proceeds of the sale shall be deposited in the appropriate department suspense fund.

(b) On conviction of a violation, on a plea of nolo contendere, or on assessment of deferred adjudication in connection with an alligator, alligator hide, alligator egg, or alligator part seized under this section, the department shall transfer the proceeds of the sale from the suspense fund to the game, fish, and water safety fund ~~[If a person is charged with a violation of a provision of this chapter or of a regulation of the commission issued under this chapter, the game warden or peace officer shall seize and hold the alligator, alligator hide, or any part of an alligator as evidence].~~

(c) If the alleged violator is found not guilty of the offense or if the charges are dismissed, the department shall transfer to the owner the entire proceeds of the sale of the alligator, alligator hide, alligator egg, or alligator part ~~[On conviction of the person or on plea of nolo contendere, the alligator, alligator hide, or any part of an alligator seized may be sold at any time by the department to the highest bidder after taking a minimum of three written bids].~~

(d) ~~[If the person is adjudged not guilty of the offense, the department shall return all alligators, alligator hides, or parts of an alligator seized to the lawful owner.~~

~~[(c)]~~ A game warden or peace officer acting under the authority of this chapter or of a regulation of the commission is immune from liability and from suit for the seizure of alligators, alligator hides, alligator eggs, or any part of an alligator.

SECTION 7. Section 77.027, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.027. CONFISCATION AND DISPOSAL OF SHRIMP. When an enforcement officer of the department believes that a person has unlawful possession of any shrimp taken in violation of this chapter, all shrimp aboard any vessel involved or in the trawl, whether in storage, on deck, and whether alive or dead, whole or headed, frozen or fresh, shall be deemed to have been taken in violation of the chapter and shall be confiscated by the arresting officer. The cargo of shrimp shall be sold to the highest of three bidders by the officer. The proceeds of the sale shall be deposited in the state treasury to the credit of suspense fund number 900, pending the outcome of the action taken against the person charged with the illegal possession. If a bid cannot be obtained for the sale, the officer, if practicable, shall donate the shrimp to a charitable institution, hospital, or other person. Unless the person is found guilty, pleads guilty or nolo contendere, or is placed on deferred adjudication, all the proceeds shall be paid to the defendant.

SECTION 8. (a) This Act takes effect September 1, 1993.

(b) Sections 12.109(b) and 77.027, Parks and Wildlife Code, as amended by this Act, apply to aquatic life confiscated on or after the effective date of this Act.

(c) Section 12.110(c), Parks and Wildlife Code, as added by this Act, applies to the seizure or donation of a game bird, other fowl, animal, or game fish on or after the effective date of this Act.

(d) Section 65.009, Parks and Wildlife Code, as amended by this Act, applies to an alligator, alligator hide, alligator egg, or alligator part seized on or after the effective date of this Act. The seizure of an alligator, alligator hide, alligator egg, or alligator part before the effective date of this Act is governed by the law in effect on the date of the seizure, and the former law is continued in effect for that purpose.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendment to S.B. 440 by a viva voce vote.

#### SENATE BILL 377 WITH HOUSE AMENDMENTS

Senator Haley called S.B. 377 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment No. 1**

Amend S.B. 377, SECTION 5, page 8, lines 11-14 to read as follows:

SECTION 5. Nothing herein shall be construed to abrogate any agreement specified in the February 2, 1990 Stipulation and Agreement in Public Utility Commission of Texas Docket No. 8585/8218 (Stipulation). Any flow through of access reductions by an interexchange telecommunications carrier which is required by said Stipulation shall provide reductions to each affected type of service in the same relative proportion as the annual access minutes of use billed to that type of service. Any interexchange telecommunications carrier required by the Stipulation to flow through access reductions resulting from Docket No. 8585/8218 shall deliver revised tariff sheets reflecting such flow through, together with supporting documentation, to the commission staff, for review and concurrence, within 60 days of implementation of the last rate reduction required by said Stipulation.

**Amendment No. 2**

Amend S.B. 377, SECTION 2, as it amends Section 18(c)(2), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), on page 5, line 1, by deleting the amendatory language "local exchange and intralata interexchange" as it appears before the word "telecommunications"; and

Further amend said section, on page 5, line 2, by inserting after the word "carriers" the following: "in the local exchange and intralata interexchange telecommunications industry".

**Committee Amendment No. 3**

Amend S.B. 377, SECTION 2, page 4, line 19, by inserting after the word "by" the following: "subsections (l) and (m) of this section and".

**Amendment No. 4**

Amend S.B. 377 by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. Notwithstanding any provision of S.B. 498, H.B. 1229, or other law enacted by the 73rd Legislature, Regular Session, 1993, to the contrary, if there is a conflict between this Act and S.B. 498, H.B. 1229, or other enacted law, this Act controls regardless of date of enactment.

The amendments were read.

On motion of Senator Haley and by unanimous consent, the Senate concurred in the House amendments to S.B. 377 by a viva voce vote.

**RECORD OF VOTE**

Senator Rosson asked to be recorded as voting "Nay" on concurring in the House amendments.

**SENATE BILL 1041 WITH HOUSE AMENDMENT**

Senator Parker called S.B. 1041 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Floor Amendment No. 1**

Amend S.B. 1041 as follows:

(1) On page 1, lines 16-22, by substituting the following for Sec. 341.041(a):

"Sec. 341.041. FEES. (a) The commission by rule may charge fees to a person who owns, operates, or maintains a public drinking water supply system to recover the costs of public drinking water supply system programs or services authorized by this subchapter or performed pursuant to the requirements of the federal Safe Drinking Water Act (40 U.S.C. 30f et seq.). The commission may establish a schedule of fees. The amount of the fees may not exceed the reasonable costs of administering the programs and services in this subchapter or the federal Safe Drinking Water Act."

(2) On page 9, between lines 1 and 2, add a new SECTION 3 to read as follows:

"SECTION 3. Amend Section 341.031(a) to read as follows:

"Sec. 341.031. PUBLIC DRINKING WATER. (a) Public drinking water must be free from deleterious matter and must comply with the standards established by the commission, ~~board or~~ the United States Public Health Service, or the United States Environmental Protection Agency. The commission may adopt and enforce rules to implement the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f, et seq.)."

(3) Renumber remaining sections appropriately.

The amendment was read.

On motion of Senator Parker and by unanimous consent, the Senate concurred in the House amendment to S.B. 1041 by a viva voce vote.

**SENATE BILL 563 WITH HOUSE AMENDMENTS**

Senator Armbrister called S.B. 563 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

Amend S.B. 563 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the authority of the Texas Department of Health to employ peace officers.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Subchapter K, Chapter 431, Health and Safety Code, is amended by adding Section 431.2471 to read as follows:

**Sec. 431.2471. TEXAS DEPARTMENT OF HEALTH PEACE OFFICERS. (a) The department may employ peace officers to administer and enforce this chapter.**

(b) The department may not employ a peace officer under this section unless:

(1) the employee will enforce the food and drug portions of this chapter;

(2) the Commission on Law Enforcement Officer Standards and Education certifies the employee as qualified to be a peace officer; and

(3) the commissioner recommends the employee to the department as being qualified to enforce the food and drug laws within the jurisdiction of the department.

(c) A person employed as a peace officer under this section has the powers, privileges, and immunities of a peace officer while carrying out the employee's duties under this chapter.

SECTION 2. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

- (1) sheriffs and their deputies;
- (2) constables and deputy constables;
- (3) marshals or police officers of an incorporated city, town, or village;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Subchapter E, Chapter 51, Education Code;
- (9) officers commissioned by the ~~[State Purchasing and]~~ General Services Commission;
- (10) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (11) airport police officers commissioned by a city with a population of more than one million, according to the most recent federal census, that operates an airport that serves commercial air carriers;
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;
- (13) municipal park and recreational patrolmen and security officers;
- (14) security officers commissioned as peace officers by the State Treasurer;
- (15) officers commissioned by a water control and improvement district under Section 51.132, Water Code;

(16) officers commissioned by a board of trustees under Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes);

(17) investigators commissioned by the Texas State Board of Medical Examiners;

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned by the State Board of Pharmacy;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 13, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), or by a regional transportation authority under Section 10, Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes);

(23) officers commissioned by the Texas High-Speed Rail Authority;

(24) investigators commissioned by the attorney general under Section 402.009, Government Code; ~~and~~

(25) security officers and investigators commissioned as peace officers under the State Lottery Act; ~~and~~

(26) officers employed by the Texas Department of Health under Section 431.2471, Health and Safety Code.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Amendment No. 1

Amend C.S.S.B. 563 as follows:

1) Page 1, line 8, insert an a after employ and delete the s from the word officers.

2) Page 1, line 16, delete and.

3) Page 1, line 19, delete and and enter ; and.

4) Page 1, add (4) the employee also serves simultaneously as the Director of the Food and Drug Division of the department.

5) Page 4, line 10, delete the s from the word officers.

The amendments were read.

On motion of Senator Armbrister and by unanimous consent, the Senate concurred in the House amendments to S.B. 563 by a viva voce vote.

**SENATE JOINT RESOLUTION 19 WITH HOUSE AMENDMENT**

Senator Ellis called S.J.R. 19 from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

**Amendment No. 1**

Amend S.J.R. 19 to read as follows:

(1) On line 11, after the word "been", strike the word "timely".

The amendment was read.

Senator Ellis moved to concur in the House amendment to S.J.R. 19.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 714 WITH HOUSE AMENDMENTS**

Senator Ellis called S.B. 714 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment No. 1**

Amend S.B. 714 on page 7, insert a new Section 5 to read as follows:

"SECTION 5. Agencies are not required to carry out duties relating to this Act except to the extent that federal funds are appropriated to agencies or are otherwise available."

Renumber the subsequent sections of the bill as necessary.

**Amendment No. 2**

Amend S.B. 714, page 5, line 19, after the word "section." by inserting the words "The report shall also include the costs, above federal funds, incurred by the school districts and the state in order to comply with this act." The lines should read as follows:

..."that failed to satisfy the requirements of this section. The report shall also include the costs, above federal funds, incurred by the school districts and the state in order to comply with this act."

**Amendment No. 3**

Amend S.B. 714 as follows:

1. On page 6, strike line 9 and renumber subsequent section of the bill accordingly.

The amendments were read.

On motion of Senator Ellis and by unanimous consent, the Senate concurred in the House amendments to S.B. 714 by a viva voce vote.

**SENATE BILL 939 WITH HOUSE AMENDMENTS**

Senator Ellis called S.B. 939 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment No. 1**

Amend S.B. 939 as follows:

(1) In Section 1 of the bill, in Section 12, Article 5181.1 (page 1, line 7, House Committee Report), strike "Class A" and substitute "Class B".

(2) In Section 2 of the bill, in Section 13(q), Article 5181.1 (page 6, lines 7 and 8, House Committee Report), strike "attorney fees, including investigation costs and other costs of court" and substitute "attorney's fees and other costs of court".

**Amendment No. 2**

Amend S.B. 939 by striking Section 14, Chapter 531, Acts of the 67th Legislature, Regular Session, 1981, (Article 5181.1, Vernon's Texas Civil Statutes), as added by Section 2 of the bill, and substituting the following:

Sec. 14. INJUNCTION: ATTORNEY GENERAL ACTION. The attorney general may seek injunctive relief in district court against an employer who repeatedly violates the requirements established by this act relating to the employment of children.

The amendments were read.

Senator Ellis moved to concur in the House amendments to S.B. 939.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 621 WITH HOUSE AMENDMENTS**

Senator Carriker called S.B. 621 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

Amend S.B. 621 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the continuation and functions of the Texas State Board of Pharmacy and to the regulation of the practice of pharmacy; providing penalties.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Section 3, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 3. SUNSET PROVISION.** The Texas State Board of Pharmacy is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2005 [1993].

**SECTION 2.** Section 7, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. MEMBERSHIP. (a) The board consists of nine members, ~~six~~ ~~[seven]~~ of whom must be licensed pharmacists and ~~three~~ ~~[two]~~ of whom must be representatives of the general public. There shall be representation on the board for licensed pharmacists who are primarily employed in Class A and Class C pharmacies.

(b) A person ~~[who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities as a member of a trade or professional association in the regulated profession]~~ may not act as general counsel or serve as a member of the board if the person is required to register as a lobbyist under Chapter 305, Government Code, and its subsequent amendments, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

SECTION 3. Section 8, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. QUALIFICATIONS. (a) A licensed pharmacist member of the board may not be a salaried faculty member at a college of pharmacy and must at the time of his appointment:

(1) be a resident of this state;

(2) be licensed for the five years immediately preceding appointment and be in good standing to engage in the practice of pharmacy in this state; and

(3) be engaged in the practice of pharmacy in this state; ~~and~~

~~[(4) not be an officer, employee, or paid consultant of a trade association in the regulated industry or be related within the second degree by affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry].~~

(b) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a ~~[an agency or]~~ business entity or other organization regulated by the board or receiving funds from the board ~~[that provides health care services or that sells, manufactures, or distributes health care supplies or equipment]; [or]~~

(3) owns or ~~[or]~~ controls ~~[or has an interest in]~~, directly or indirectly, more than a 10 percent interest in ~~[of]~~ a business entity or other organization regulated by the board or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses ~~[that provides health care services or that sells, manufactures, or distributes health care supplies or equipment].~~

(c) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment or does not maintain during his service on the board the qualifications required by Sections 7(a) and (b) of this Act; ~~[Subsection (a) or (b) of this section, as appropriate; or]~~

(2) violates the prohibition prescribed by Section 7(b) of this Act or Subsection (a) of this section;

~~(3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or~~

~~(4) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.~~

~~(d) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.~~

~~(e) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the president of the board of the ground. The president shall then notify the governor that a potential ground for removal exists.~~

SECTION 4. Section 9(a), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The governor shall appoint the members of the board with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, disability [~~race~~], sex, religion, age, or national origin of the appointee.

SECTION 5. Section 12, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by amending Subsections (c), (d), and (e) and by adding Subsection (f) to read as follows:

(c) The board shall employ a licensed pharmacist who shall serve as a secretary to and be an ex officio member of the board without vote to serve as a full-time employee of the board in the position of executive director. The executive director shall be responsible for the performance of the regular administrative functions of the board and other duties as the board may direct. The executive director may not perform any discretionary or decision-making functions for which the board is solely responsible. The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

(d) The executive director or the executive director's [his] designee shall develop within one year of the effective date of this Act an intra-agency career ladder program, one part of which shall be the intra-agency posting of all nonentry level positions concurrently with [for at least 10 days prior to] any public posting.

(e) The executive director or the executive director's [his] designee shall develop ~~[within one year of the effective date of this Act]~~ a system of annual performance evaluations ~~[based on measurable job tasks]~~. All [Within two years of the effective date of this Act, all] merit pay for board employees [authorized by the executive director] must be based on the system established by this subsection.

(f) Each board member shall comply with the board member training requirements established by any other state agency that is given authority to establish the requirements for the board.

SECTION 6. Section 15, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and by adding Subsections (d), (e), and (f) to read as follows:

(c) ~~An [employee of the board may not be an] officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member or employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule [regulated industry or be related within the second degree by affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry].~~

(d) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a board member and may not be a board employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(f) The board shall provide to its members and employees, as often as necessary, information regarding their qualification for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 7. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 15A to read as follows:

Sec. 15A. EQUAL EMPLOYMENT OPPORTUNITIES. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the board work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated annually and reviewed by the

Commission on Human Rights for compliance with Subsection (a)(1) of this section, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 8. Section 16, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

SECTION 9. Section 17(f), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The board shall submit whatever reports are required by state law. The [Before December 1 of each year, the] board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed [a] written report accounting [with the legislature and the governor in which the board accounts] for all funds received and disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 10. Section 17(m), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(m) The board shall maintain an office where permanent records are kept and preserve a record of its proceedings. [The board shall maintain an information file about each complaint filed with the board relating to a licensee. If a written complaint is filed with the board relating to a licensee, the board shall, at least semiannually, notify the parties to the complaint as to the status of the complaint until final disposition, unless the notification would jeopardize an undercover investigation.]

SECTION 11. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Sections 17A, 17B, 17C, 17D, and 17E to read as follows:

Sec. 17A. PUBLIC INTEREST INFORMATION AND COMPLAINTS: PUBLIC ACCESS TO BOARD FUNCTIONS. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board.

The board may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated under this Act;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated under this Act; or

(3) in a bill for service provided by an individual or entity regulated under this Act.

(c) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(e) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Sec. 17B. RECORDS OF COMPLAINTS. (a) The board shall keep an information file about each complaint filed with the board. The board's information file shall be kept current and contain a record for each complaint of:

(1) all persons contacted in relation to the complaint;

(2) a summary of the results of the review or investigation of the complaint;

(3) for complaints for which the board took no action, an explanation of the reason the complaint was closed without action; and

(4) other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as every four months and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form for the filing of complaints made to the board. The board shall notify the complainant not later than the 30th day after the date of receipt by the board of the complaint and shall provide an estimated time for resolution of the complaint.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

Sec. 17C. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt policies and procedures concerning the investigation of a complaint filed with the board. The policies and procedures adopted under this subsection shall:

(1) determine the seriousness of the complaint;

(2) ensure that complaints are not closed without appropriate consideration;

(3) ensure that a letter is sent to the person who filed the complaint explaining the action taken on the complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the types of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall dispose of all complaints in a timely manner. The board shall establish a timeline for conducting each phase of a complaint that is under the control of the board. The timeline shall be kept in the information file for the complaint. A change in the timeline must be noted in the complaint information file.

(c) The executive director of the board shall notify the board of the number of complaints that extend beyond two years after the date of the filing of the complaint. The executive director shall provide the board with an explanation of the reason that the complaints have not been resolved. The notice and explanation shall be provided to the board periodically at regularly scheduled board meetings.

Sec. 17D. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) Rules adopted under this section must provide the complainant, when applicable and permitted by law, and the licensee an opportunity to be heard and must require the presence of an attorney to advise the board or the board's employees. The attorney must be a member of the board's legal staff, if the board has a legal staff. If the board does not have a legal staff, the attorney must be an employee of the office of the attorney general.

Sec. 17E. MONITORING OF LICENSE HOLDER. The board shall develop policies and procedures for monitoring license holders' compliance with the requirements of this Act. Policies and procedures adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

SECTION 12. Sections 21(c) and (d), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The examinations for licensing required under this section shall be given by the board at least two times during the fiscal year of the state. The board shall determine the content and subject matter of each examination and determine which persons have successfully passed the examination. An applicant who fails the examination may retake the examination two additional times. Before an applicant who has failed the examination three times is allowed to retake the examination, the applicant shall provide documentation from a college of pharmacy that additional college course work in subject areas the applicant failed in the examination

have been successfully completed. If requested in writing by a person who fails the licensing examination administered under this Act [so requests in writing], the board shall furnish the person with an analysis of the person's [his] performance on the examination.

(d) The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed the examination. A written examination prepared or offered by the board, including standardized national examinations, shall be validated by an independent testing professional.

SECTION 13. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 22A to read as follows:

Sec. 22A. PROVISIONAL LICENSE. (a) The State Board of Pharmacy may, in the discretion of the board in each instance, upon payment by the applicant for registration of a fee set by the board, grant a provisional license to an applicant who presents proof of current licensure in another state, including the District of Columbia, or territory of the United States that maintains professional standards considered by the board to be equivalent to those set forth in this Act. An applicant for the provisional license under this article must:

(1) be licensed in good standing as a pharmacist in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this Act;

(2) have passed a national or other examination recognized by the board relating to pharmacy; and

(3) be sponsored by a person licensed by the board under this Act with whom the provisional license holder may practice under this section.

(b) An applicant for a provisional license may be excused from Subsection (a)(3) of this section if the board determines that compliance with that section constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this Act to the holder of a provisional license under this section if:

(1) the provisional license holder passes the jurisprudence examination required by this Act;

(2) the board verifies that the provisional license holder has the academic and experience requirements for a license under this Act; and

(3) the provisional license holder satisfies any other license requirements under this Act.

(d) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued or at the time licenses are issued following the successful completion of the examination, whichever is later.

SECTION 14. Section 24, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 24. LICENSE RENEWAL. (a) A license to practice pharmacy expires on December 31 of each year or of every other year, as determined by the board. To be eligible to renew the license, a licensee must comply with the continuing education requirements prescribed by the board.

(b) The license may be renewed for one or two years, as determined by the board, by payment of a renewal fee as determined by the board and by filing a completed application, given under oath, with the board for a license renewal certificate before the expiration date of the license. The application must state that the mandatory (number of hours of) continuing education requirements have been completed by the licensee during the preceding license period.

(c) On timely receipt of the completed application, the renewal fee, and proof of completion of the continuing education requirements prescribed by Section 24A of this Act, the board shall issue a license renewal certificate bearing the pharmacist's license number, the period for which it is renewed, and other information the board determines necessary.

(d) If a person's license has been expired for ~~[not more than]~~ 90 days or less, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.

(e) If a person's license has been expired for more than 90 days but less than one year ~~[two years]~~, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(f) If a person's license has been expired for one year ~~[two years]~~ or more, the person may not renew the license ~~[and must apply for a new license]~~. The board may issue a new license to that person if the person has not had a license granted by any other state suspended, revoked, canceled, surrendered, or otherwise restricted for any reason, and if the person:

(1) was licensed as a pharmacist in this state, moved to another state, is licensed in the other state and has been engaged in the practice of pharmacy in the other state for the two years preceding the application for a new license, pays to the board an amount equal to the examination fee for the license, and passes the Texas Drug and Pharmacy Jurisprudence examination;

(2) was licensed as a pharmacist in this state, pays to the board an amount equal to the examination fee for the license, successfully passes the Texas Drug and Pharmacy Jurisprudence examination and any other examination required by the board, and, in addition to or in lieu of passing the examination as required by the board, participates in continuing pharmacy education and practices under conditions set by the board; or

(3) submits to reexamination and complies with the requirements and procedures for obtaining an original license.

(g) At least 30 days before the expiration of a person's license, the board shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the

~~board. [The board shall notify each licensee in writing of the licensee's impending license expiration at least 60 days before the expiration date and again two weeks before the expiration date. The notice must state the number of continuing education hours the licensee must complete to be eligible to renew the license. If the licensee exceeded the number of hours of continuing education required for renewal during the preceding license period, the notice must include the number of hours the licensee may carry forward.]~~

~~[(h) The board shall specify by rule the procedures to be followed and the fees to be paid for renewal and penalties for late renewal of licenses.]~~

~~(h) [(i)]~~ Practicing pharmacy without an annual or biennial renewal certificate for the current year, as provided by this Act, shall have the same effect and be subject to all penalties of practicing pharmacy without a license.

~~(i) [(j)]~~ A license to practice pharmacy or annual or biennial renewal certificate issued by the board may not be duplicated in any manner except as expressly provided by this Act. The board may in its discretion issue duplicate copies of either the license to practice pharmacy or the annual or biennial renewal certificate on request from the holder and on payment of a fee as determined by the board.

SECTION 15. Section 24A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 24A. MANDATORY CONTINUING EDUCATION REQUIREMENTS. (a) To renew a license to practice pharmacy, a licensee must demonstrate to the satisfaction of the board completion of the requirement for continuing professional education as required by this section. Each licensee shall execute a certified statement at the time of renewal attesting that the licensee has satisfied the continuing education requirement.

(b) The continuing education requirement may be met either by completing continuing education programs approved by the board or by taking and passing a standardized pharmacy examination approved by the board. A licensee who elects to take the examination must pay the examination fee assessed by the board under Section 39 of this Act.

(c) The board shall adopt rules relating to the approval of continuing education programs and providers. In adopting the rules, the board may consider providers approved by the American Council on Pharmaceutical Education and programs approved by the Texas Pharmacy Foundation. The board shall approve home study courses, correspondence courses, or other similar programs. Each program approved by the board shall issue a certificate of completion to a licensee who completes the program in a satisfactory manner.

(d) An applicant who satisfies the continuing education requirement through completion of approved programs must present evidence satisfactory to the board of completion of at least 12 hours of continuing education during the preceding license period. A licensee who completes more than 12 hours during the preceding license period may carry forward a maximum of 12 hours for the next license period.

(e) Each licensee shall maintain records for three years evidencing completion of the continuing education programs completed by the licensee. On an audit by the board, a licensee is considered in compliance with the continuing education requirements if the licensee submits to the board:

(1) an affidavit stating that the licensee has complied with those requirements; and

(2) records evidencing completion of the continuing education programs.

(f) The board shall adopt rules relating to the operation of the mandatory continuing education programs. In establishing the requirement for continuing education, the board shall consider:

(1) factors that lead to the competent performance of professional duties; and

(2) the continuing education needs of licensees.

(g) The board shall adopt rules relating to the adoption or approval of mandatory continuing education programs and providers and shall adopt rules to evaluate the effectiveness of the programs and a licensee's participation and performance in the programs.

(h) The board by rule may grant an extension to the mandatory continuing education requirements for good cause.

(i) [(g)] The board may adopt rules to exempt persons from all or a portion of the mandatory continuing education requirements [during their initial license period].

SECTION 16. Section 24B(a), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board by rule shall adopt a system for the placement on inactive status of a license held by a person who is licensed by the board to practice pharmacy but who is not eligible to renew the license for failure to comply with the mandatory continuing education requirements of Section 24A of this Act and who is not engaged in the practice of pharmacy in this state. The board may restrict the length of time a license holder may remain on inactive status.

SECTION 17. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 24C to read as follows:

Sec. 24C. TEMPORARY LICENSE. The board by rule may provide for the issuance of a temporary license.

SECTION 18. Section 26, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26. GROUNDS FOR DISCIPLINE. (a) Grounds for Disciplining a Holder of or Applicant for a Pharmacist License: The board shall refuse to issue a pharmacist license for failure to meet the requirements of Section 21 or 22 of this Act. The board may in its discretion refuse to issue or renew a license or may assess a penalty [fine], reprimand, revoke, restrict, cancel, retire, or suspend any license granted by the board, and may probate any license suspension if the board finds that the applicant or licensee has:

(1) violated any provision of this Act or any of the rules of the board adopted under this Act;

(2) engaged in unprofessional conduct as that term is defined by the rules of the board;

(3) engaged in gross immorality as that term is defined by the rules of the board;

(4) developed an incapacity of a nature that prevents a pharmacist or applicant from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public. In enforcing this subdivision, the board shall, on probable cause, request a pharmacist or applicant to submit to a mental or physical examination by physicians designated by the board. If the pharmacist or applicant refuses to submit to the examination, the board shall issue an order requiring the pharmacist or applicant to show cause why he will not submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the pharmacist or applicant. The pharmacist or applicant shall be notified by either personal service or certified mail with return receipt requested. At the hearing, the pharmacist or applicant and an [his] attorney are entitled to present any testimony and other evidence to show why the pharmacist or applicant should not be required to submit to the examination. After the hearing, the board shall issue an order either requiring the pharmacist or applicant to submit to the examination or withdrawing the request for examination;

(5) engaged in any fraud, deceit, or misrepresentation as those words are defined by the rules of the board in the practice of pharmacy or in seeking a license to act as a pharmacist;

(6) been convicted of a felony or a misdemeanor involving moral turpitude by a court of competent jurisdiction;

(7) a drug or alcohol dependency;

(8) failed to keep and maintain records required by this Act or failed to keep and maintain complete and accurate records of purchases and disposals of drugs listed in the Controlled Substances Act or the Dangerous Drug Act;

(9) violated any provision of the Controlled Substances Act or Dangerous Drug Act or a rule relating to those acts or any provision of Sections 485.031-485.035, Health and Safety Code, or a rule adopted under Section 485.011, Health and Safety Code;

(10) aided or abetted an unlicensed individual to engage in the practice of pharmacy if the pharmacist knew or reasonably should have known that the individual was unlicensed at the time;

(11) refused an entry into any pharmacy for any inspection authorized by this Act if the pharmacist had received notification from which the pharmacist knew or reasonably should have known that the attempted inspection was authorized;

(12) violated the pharmacy or drug laws or rules of this state or any other state or of the United States;

(13) been negligent in the practice of pharmacy;

(14) failed to submit to an examination after hearing and being ordered to do so by the board pursuant to Subdivision (4) of this subsection;

(15) dispensed prescription drugs while acting outside the usual course and scope of professional practice; or

(16) had a license to practice pharmacy issued by another state canceled, revoked, surrendered, or suspended for conduct substantially equivalent to conduct described in Subdivisions (1) through (15) of this subsection. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

(b) Grounds for Disciplining a Holder of a Pharmacy License: The board shall refuse to issue a pharmacy license for failure to meet the requirements of Section 29 or 30 of this Act. The board may in its discretion refuse to issue or renew a license or may assess a penalty [fine], reprimand, revoke, restrict, cancel, or suspend any license granted by the board, and may probate any license suspension if the board finds that the applicant or licensee has:

(1) been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant or licensee is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony or a misdemeanor involving moral turpitude under the law of this state, another state, or the United States;

(2) advertised any prescription drugs or devices in a deceitful, misleading, or fraudulent manner;

(3) violated any provision of this Act or any rule adopted under this Act or that any owner or employee of a pharmacy has violated any provision of this Act or any rule adopted under this Act;

(4) sold without legal authorization prescription drugs or devices to persons other than:

(A) a pharmacy licensed by the board;

(B) a practitioner;

(C) a person who procures prescription drugs or devices for the purpose of lawful research, teaching, or testing, and not for resale;

(D) a manufacturer or wholesaler registered with the commissioner of health as required by Chapter 431, Health and Safety Code; or

(E) a carrier or warehouseman;

(5) allowed an employee who is not a licensed pharmacist to practice pharmacy;

(6) sold adulterated or misbranded prescription or nonprescription drugs;

(7) failed to engage in or ceased to engage in the business described in the application for a license;

(8) failed to keep and maintain records as required by this Act, the Controlled Substances Act, Dangerous Drug Act, or rules adopted under this Act or the Dangerous Drug Act; or

(9) failed to establish and maintain effective controls against diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by this Act or other state or federal laws or rules.

SECTION 19. Sections 26A(a) and (b), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) On the entry of an initial order against a person licensed by the board to practice pharmacy, the board may refuse to issue a license to an applicant or suspend the person's license. On the person's final conviction, the board may revoke the person's license.

(b) On the entry of an initial order against an applicant for a pharmacy license or a person who has been issued a license or renewal license for a pharmacy under this Act, or against a managing officer of the licensee or applicant if the licensee or applicant is an association, joint-stock company, partnership, or corporation, the board may refuse to issue the license or may suspend the license. On final conviction, the board may revoke the license.

SECTION 20. Sections 26B(a) and (b), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board may in its discretion refuse to issue or renew a license or may assess a penalty ~~[fine]~~ or reprimand any licensee or revoke, restrict, cancel, or suspend any license granted by the board, if the board finds that an applicant or licensee has:

(1) dispensed a drug, quantity, or strength of drug other than that which is ordered for the patient by a practitioner or labeled a prescription with incorrect directions for use;

(2) violated any of the following provisions of this Act:

(A) Section 29(a), (b)(5), or (c)(5);

(B) Section 30(i) or (j); or

(C) Section 32(a);

(3) failed to comply with the following requirements unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located:

(A) Section 481.074 or 481.075, Health and Safety Code;

(B) Texas substitution requirements regarding:

(i) the practitioner's directions relative to generic substitution;

(ii) the patient's right to refuse generic substitution; or

(iii) notification to the patient of the patient's right to refuse substitution; or

(C) board rules relating to the provision of drug information to the patient or patient's agent in written form or by telephone; or

(4) engaged in conduct which caused serious bodily injury to a Texas resident.

(b) A Class E pharmacy is subject to all rules and regulations that are applicable to a Class A, B, C, or D pharmacy ~~[Except in the case of an emergency that creates an immediate danger to the public health or safety, prior to initiating a disciplinary action against a Class E pharmacy, the board must file a complaint against a Class E pharmacy with the regulatory or licensing agency of the state in which the Class E pharmacy is located].~~

SECTION 21. Section 27A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsection (j) to read as follows:

(d) The records and proceedings of the board, its authorized agents, or any pharmaceutical organization committee as set out in Subsections (a) and (b) of this section shall be confidential and are not considered open records for the purposes of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes); provided, however, the board may disclose this confidential information only:

(1) in a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order;

(2) to the pharmacist licensing or disciplinary authorities of other jurisdictions; ~~or~~

(3) pursuant to an order of a court of competent jurisdiction; ~~or~~

(4) pursuant to Subsection (j) of this section.

(j) The board may disclose that the license of a pharmacist who is the subject of an order of the board that is confidential under Subsection (d) of this section is suspended, revoked, canceled, restricted, or retired or that the pharmacist is in any manner otherwise limited in the practice of pharmacy. The board may not disclose the nature of the impairment or other information that resulted in the board's action.

SECTION 22. Section 28(a), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) On the finding of the existence of grounds for discipline of any person holding a license or seeking a license or a renewal license under this Act, the board may impose one or more of the following penalties:

(1) suspension of the offender's license;

(2) revocation of the offender's license;

(3) restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy or operating a pharmacy in a particular manner for a term and under conditions to be determined by the board;

(4) imposition of an administrative penalty under Section 28B of this Act ~~[a fine not to exceed \$1,000 for each offense involving diversion of controlled substances or a fine not to exceed \$250 for any other offense];~~

(5) refusal to issue or renew the offender's license;

(6) placement of the offender's license on probation and supervision by the board for a period to be determined by the board and imposition of a requirement that the practitioner:

(A) report regularly to the board on matters that are the basis of the probation;

(B) limit practice to the areas prescribed by the board; or

(C) continue or review professional education until the practitioner attains a degree of skill satisfactory to the board in those areas that are the basis of the probation;

(7) reprimand;

(8) cancellation of the offender's license; ~~or~~

(9) retirement of the offender's license as provided by board rule;

or

(10) imposition of a civil penalty that does not exceed \$1,000 for each day of each violation and that may be collected in a suit initiated by the board.

SECTION 23. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 28A to read as follows:

Sec. 28A. TEMPORARY SUSPENSION OF LICENSE. If the majority of the board or a three-member committee of board members designated by the board determines from the evidence or information presented to it that a pharmacist by continuation in practice would constitute a continuing threat to the public welfare, the board or the three-member committee shall temporarily suspend the license of the pharmacist. The license may be temporarily suspended without notice or hearing if, at the time the suspension is ordered, a hearing before the board on whether disciplinary proceedings under this Act should be initiated against the license holder is scheduled to be held not later than the 14th day after the date of the suspension. A second hearing on the suspended license shall be held by the State Office of Administrative Hearings not later than the 60th day after the date of the suspension. If the second hearing is not held in the time required by this subsection, the suspended license is automatically reinstated.

SECTION 24. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 28B to read as follows:

Sec. 28B. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty against a person licensed or regulated under this Act who violates this Act or a rule or order adopted under this Act.

(b) The penalty for a violation involving the diversion of controlled substances may be in an amount not to exceed \$5,000 for each day of each violation. The penalty for other violations may be in an amount not to exceed \$2,500 for each day of each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty, to the extent possible, shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) The executive director, or staff designee, upon determination that a violation has occurred may issue to the board a report that states the facts on which the determination is based and the director's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is approved by the board and issued, the executive director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the executive director or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the executive director, the board by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the executive director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by the board, except that a hearing involving the diversion of controlled substances shall be held by an administrative law judge of the State Office of Administrative Hearings. The board or the administrative law judge, as appropriate, shall make findings of fact and conclusions of law and, if the hearing is held by an administrative law judge, the judge promptly shall issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and any proposal for a decision, the board by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the board's order given to the person under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments must include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the board's order is final as provided by Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court for the amount of the penalty and that is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(l) An executive director who receives a copy of an affidavit under Subsection (k)(2) of this section may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the board:

(1) is instituted by filing a petition as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

(r) All proceedings under this section are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments.

(s) This section does not limit the ability of the board to impose an administrative penalty pursuant to a consent order entered in accordance with board rules and requirements of Section 17D of this Act.

SECTION 25. Section 33, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) A practitioner may not issue a prescription to be dispensed unless the prescription contains the following typed, printed, or stamped information:

(1) the practitioner's name, address, and phone number; and

(2) the practitioner's required identification number.

SECTION 26. Section 39, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 39. FEES. The board by rule shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering this Act ~~[may not charge more than the following fees for the performance of the following duties and functions to carry out the purposes of this Act:~~

~~[(1) for processing application and administration of examination for licensure—\$250;~~

~~[(2) for processing application for licensure by reciprocity—\$250 (plus the applicable license fee);~~

~~[(3) for processing application and issuance of a pharmacist license or renewal of a pharmacist license—\$100 a year;~~

~~[(4) for processing of an application and issuance of a pharmacy license or renewal of a pharmacy license—\$150; and~~

~~[(5) for processing an application and the issuance or renewal of a pharmacist license for a pharmacist who has been licensed by the board for at least 50 years and who does not actively practice pharmacy—\$75 a year].~~

SECTION 27. Section 481.002(41), Health and Safety Code, is amended to read as follows:

(41) "Prescription" means an order by a practitioner to a pharmacist for a controlled substance for a particular patient that specifies:

(A) the date of issue;

(B) the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;

(C) the name and quantity of the controlled substance prescribed with the quantity shown numerically followed by the number written as a word if the order is written or, if the order is communicated orally or telephonically, with the quantity given by the practitioner and transcribed by the pharmacist numerically; ~~and~~

(D) directions for the use of the drug; ~~and~~

(E) the legibly printed or stamped name, address, Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner's usual place of business.

SECTION 28. Section 481.074(i), Health and Safety Code, is amended to read as follows:

(i) A prescription for a controlled substance must show:

- (1) the quantity of the substance prescribed:
  - (A) written as a word if the prescription is written; or
  - (B) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;
- (2) the date of issue;
- (3) the name and address of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;
- (4) the name and strength of the controlled substance prescribed;
- (5) the directions for use of the controlled substance; and
- (6) the legibly stamped or printed name, address, [and] Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner's usual place of business.

SECTION 29. Section 483.001(13), Health and Safety Code, is amended to read as follows:

(13) "Prescription" means an order from a practitioner, or an agent of the practitioner designated in writing as authorized to communicate prescriptions, or an order made in accordance with Section 3.06(d)(5), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), to a pharmacist for a dangerous drug to be dispensed that states:

- (A) the date of the order's issue;
- (B) the name and address of the patient;
- (C) if the drug is prescribed for an animal, the species of the animal;
- (D) the name and quantity of the drug prescribed; ~~and~~
- (E) the directions for the use of the drug; ~~and~~
- (F) the legibly printed or stamped name, address, Federal Drug Enforcement Administration registration number, and telephone number of the practitioner at the practitioner's usual place of business.

SECTION 30. (a) The changes in law made by this Act relating to an administrative or civil penalty that may be imposed apply only to a violation of the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) or a rule adopted by the Texas State Board of Pharmacy that occurs on or after the effective date of this Act. A violation occurs on or after the effective date of this Act only if each element of the violation occurs on or after that date. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for this purpose.

(b)(1) As the terms of members of the Texas State Board of Pharmacy expire or as a vacancy occurs on the board, the governor shall appoint members to the board to achieve, as soon as possible, the membership plan prescribed for the board by this Act.

(2) As the terms of members expire or as a vacancy occurs on the board, the governor shall appoint members to the board and designate

members to serve terms so that every two years the terms of one public member and two licensed pharmacist members expire on the same date.

(c) The changes in law made by this Act in the qualifications of members of the Texas State Board of Pharmacy do not affect the entitlement of a member appointed before September 1, 1993, to continue to hold office on the board for the term for which the member was appointed. The changes in the qualifications apply only to a member appointed on or after September 1, 1993.

SECTION 31. Section 17(v), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 32. This Act takes effect September 1, 1993.

SECTION 33. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Amendment No. 1

Amend C.S.S.B. 621 as follows:

(1) In SECTION 22 of the bill, in Section 28(a), Texas Pharmacy Act, (Article 4542a-1, Vernon's Texas Civil Statutes) (page 29, line 15, House Committee Report), strike "practitioner" following "that the" and replace with "licensee".

(2) In SECTION 22 of the bill, in Section 28(a), Texas Pharmacy Act, (Article 4542a-1, Vernon's Texas Civil Statutes) (page 29, line 21, House Committee Report), strike "practitioner" following "until the" and replace with "licensee".

#### Amendment No. 2

Amend C.S.S.B. 621 as follows:

(1) Strike Section 8 of the bill and substitute the following:

SECTION 8. Section 16, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) If the board determines it necessary in order to protect the health and welfare of the citizens of this state, it may make a rule concerning the operation of a licensed pharmacy located in this state also applicable to pharmacies licensed by the board that are located in another state.

(c) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.

(d) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(2) Strike Section 20 of the bill and substitute the following:

SECTION 20. Section 26B(a), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board may in its discretion refuse to issue or renew a license or may assess a penalty ~~[fine]~~ or reprimand any licensee or revoke, restrict, cancel, or suspend any license granted by the board, if the board finds that an applicant or licensee has:

(1) dispensed a drug, quantity, or strength of drug other than that which is ordered for the patient by a practitioner or labeled a prescription with incorrect directions for use;

(2) violated any of the following provisions of this Act:

(A) Section 29(a), (b)(5), or (c)(5);

(B) Section 30(i) or (j); or

(C) Section 32(a);

(3) failed to comply with the following requirements unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located:

(A) Section 481.074 or 481.075, Health and Safety Code;

(B) Texas substitution requirements regarding:

(i) the practitioner's directions relative to generic substitution;

(ii) the patient's right to refuse generic substitution; or

(iii) notification to the patient of the patient's right to refuse substitution; ~~[or]~~

(C) board rules relating to the provision of drug information to the patient or patient's agent in written form or by telephone; or

(D) board rules adopted pursuant to Section 16(a) of this Act and determined by the board to be applicable pursuant to Section 16(b) of this Act; or

(4) engaged in conduct which caused serious bodily injury to a Texas resident.

#### **Amendment No. 3**

Amend C.S.S.B. 621 as follows:

(1) In Section 23 of the bill, in added Section 28A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (page 30, lines 7 and 8, House Committee Report), strike "or a three-member committee of board members designated by the board".

(2) In Section 23 of the bill, in added Section 28A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (page 30, lines 10 and 11, House Committee Report), strike "or the three-member committee".

#### **Floor Amendment No. 4**

Amend C.S.S.B. 621 on page 39, after line 10, by adding a new Section 30 to read as follows:

"Section 30. Under the provisions of Government Code Section 403.094(h), the dedication of the State Board of Pharmacy is reenacted, and the fund is established as a special account within the State Treasury."

Renumber all subsequent sections of the bill accordingly.

The amendments were read.

On motion of Senator Carriker and by unanimous consent, the Senate concurred in the House amendments to S.B. 621 by a viva voce vote.

#### SENATE BILL 690 WITH HOUSE AMENDMENTS

Senator Carriker called S.B. 690 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Committee Amendment No. 1

Amend S.B. 690 as follows:

1) On page 83, line 8, after the period, add "The board by rule may exempt other facilities as appropriate."

2) On page 83, between lines 11 and 12, add "(c) The board by rule shall adopt a procedure whereby a facility in which the practice of occupational therapy is conducted may apply for exemption from any fees for registration under this section."

#### Amendment No. 1 on Third Reading

Amend S.B. 690 as follows:

(1) In SECTION 2.04., Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 451e, Vernon's Texas Civil Statutes), Section 2k., Section (b) strike "and before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on subjects described by Subsections (c)(7), (8), and (9) of this section."

(2) In SECTION 2.04., Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 451e, Vernon's Texas Civil Statutes), Section 3K, Section (b) strike "and before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on subjects described by Subsections (c)(7), (8), and (9) of this section."

The amendments were read.

On motion of Senator Carriker and by unanimous consent, the Senate concurred in the House amendments to S.B. 690 by a viva voce vote.

#### GUEST PRESENTED

Senator Parker was recognized and introduced to the Senate Dr. James Petry, a urologist from Port Arthur, who presented a film to the Senate titled "Urological Implications of a Filibuster."

The Senate welcomed Dr. Petry and thanked him for his presentation.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1395 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1395**, Relating to residential construction liability.

The bill was read second time and was passed to third reading by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1395 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1395** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1756 ON SECOND READING**

Senator Leedom moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 1756**, Relating to certain transfers of property by a county purchasing agent.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1756 ON THIRD READING**

Senator Leedom moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1756** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1933 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 1933**, Relating to boll weevil and pink bollworm control.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1933 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1933 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2626 ON SECOND READING**

Senator Harris of Dallas moved to suspend the regular order of business to take up and consider on its passage to third reading C.S.H.B. 2626. (The bill was previously passed on Friday, May 14, 1993. The votes on final passage, suspension of the Constitutional Three-Day Rule, and passage to third reading were reconsidered on Monday, May 17, 1993.)

**H.B. 2626**, Relating to the continuation and operation of the General Services Commission and to the transfer of certain functions to or from the General Services Commission, the comptroller of public accounts, the Texas Commission on Fire Protection, the Texas Department of Commerce, and a newly created State Council on Competitive Government and to the financing of certain projects by the commission through the issuance of revenue bonds.

The motion prevailed by the following vote: Yeas 31, Nays 0.

Question—Shall the bill be passed to third reading?

**VOTE RECONSIDERED**

On motion of Senator Harris of Dallas and by unanimous consent, the vote by which Floor Amendment No. 13 to C.S.H.B. 2626 was adopted on Friday, May 14, 1993, was reconsidered.

Question—Shall Floor Amendment No. 13 be adopted?

Senator Harris of Dallas offered the following amendment to Floor Amendment No. 13:

**Floor Amendment No. 1**

Amend Floor Amendment No. 13 to C.S.H.B. 2626 by adding new subdivisions 4 and 5 to Sec. 6.021(c) and renumbering the existing subdivisions accordingly:

(4) library space;

(5) space for hearing rooms to conduct hearings required under the Administrative Procedure & Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes); or

The amendment to Floor Amendment No. 13 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 13 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Patterson offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend C.S.H.B. 2626 by adding the following appropriately numbered section of the bill and renumbering existing sections of the bill appropriately:

SECTION \_\_\_\_\_. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.061 to read as follows:

Sec. 3.061. GROUP PURCHASING PROGRAMS. (a) Institutions of higher education, as defined by Section 61.003, Education Code, are authorized to purchase materials, supplies or equipment through group purchasing programs that offer discount prices to institutions of higher education.

(b) The commission shall promulgate rules allowing purchases through group purchasing programs unless the commission determines within a reasonable period of time after receiving notification of a particular purchase that a lower price is available through the commission.

(c) The rules shall also include provisions that provide for commission determination of compliance with state laws and commission rules regarding purchasing with historically underutilized businesses.

(d) This section does not affect other authority granted to institutions of higher education under this act.

The amendment was read and was adopted by a viva voce vote.

**VOTE RECONSIDERED**

On motion of Senator Harris of Dallas and by unanimous consent, the vote by which Floor Amendment No. 12 C.S.H.B. 2626 was adopted on Friday, May 14, 1993, was reconsidered.

Question—Shall Floor Amendment No. 12 be adopted?

Senator West offered the following amendment to Floor Amendment No. 12:

**Floor Amendment No. 3**

Amend Floor Amendment No. 12 to C.S.H.B. 2626 by striking Subsections (c) and (l) of Section 1.03 under unnumbered SECTION which amends Section 1.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), and substitute in lieu thereof the following:

(c) The commission shall prepare a report based on a compilation and analysis of reports submitted to it by each state agency and information provided by the comptroller. [commission and each state agency shall report to the office] The report shall include the total number and dollar

amount of contracts awarded and actually paid to historically underutilized [disadvantaged] businesses certified by the commission. Not later than September 15 and March 15 of each year, each state agency shall submit to the commission information required by the commission for its preparation of the report required by this subsection. [These reports shall be made each January and July and shall report on the previous six-month period. The office shall compile and analyze the reports and submit a report based on the analysis to the presiding officer of each house of the legislature each February.] The commission shall submit a consolidated report on April 15 of each year on the previous six-month period to the joint committee charged with monitoring the implementation of the historically underutilized business goals. The commission shall submit a consolidated report on October 15 of each year on the preceding fiscal year to the presiding officer of each house of the legislature, the members of the legislature and the joint committee. The commission may require information from a state agency and may adopt rules to administer this section. The comptroller shall provide information to the commission that will assist the commission in the performance of its duties under this section. Subsections (d)-(k) of this section apply to the report and information required under this section.

The amendment to Floor Amendment No. 12 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 12 as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Harris of Dallas and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was again passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 2626 ON THIRD READING**

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 2626 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was again read third time and was passed by a viva voce vote.

#### **RECORD OF VOTE**

Senator Barrientos asked to be recorded as voting "Nay" on the final passage of the bill.

#### **HOUSE BILL 167 ON SECOND READING**

Senator Harris of Tarrant moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 167**, Relating to requiring safety chains for vehicles towing trailers.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

#### HOUSE BILL 167 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 167 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 70 ON SECOND READING

Senator Madla moved to suspend the regular order of business to take up for consideration at this time:

**H.B. 70**, Relating to the issuance of specially designed license plates for certain veterans of military service.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time.

Senator Patterson offered the following amendment to the bill:

Amend **H.B. 70** as follows:

(1) On page 2, line 4, between "Auxiliary" and the semicolon insert: "or members of the Marine Corps League or its auxiliary".

(2) On page 3, line 4, between the period and "License" insert: "License plates issued to members of the Marine Corps League or its auxiliary shall bear the words "Marine Corps League" and the emblem of the Marine Corps League.".

(3) On page 3, beginning on line 18, amend Subdivision (1) to read as follows:

"(1) armed forces [~~license plates~~], Coast Guard Auxiliary, [~~or~~] Civil Air Patrol, or Marine Corps League license plates must submit proof that the person is eligible to receive the plates;"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### HOUSE BILL 70 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 70** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Montford in Chair)

**HOUSE BILL 37 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 37**, Relating to the acceptance of gifts and grants by the attorney general.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 37 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 37** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE**

**HOUSE BILL 1309 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1309**, Relating to the composition and authority of the Texas Agricultural Finance Authority.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE**

**HOUSE BILL 1309 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 76 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 76**, Relating to the accessibility of a polling place or a precinct convention to the elderly and physically handicapped.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Amend **H.B. 76** as follows:

(1) On page 2, line 13, between "43.034(a)" and the period, insert the following:

unless the state executive committee for a political party issues an order that the locations for precinct conventions for that political party do not have to meet the same requirements as a polling place under Section 43.034(a). The order must be entered in the minutes of the state executive committee not later than 30 days before the date precinct conventions are to be held

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 76 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 76** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 458 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 458**, Relating to the application for monthly survivor benefits under the Teacher Retirement System of Texas for certain persons whose remarriage disqualified them from those benefits.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Amend **H.B. 458** as follows:

(1) On page 1, line 41, strike "and".

(2) On page 1, strike lines 42-44 and insert the following:

(2) determine the number of months that the person was 65 years of age or older and did not receive the monthly survivor benefit during the period beginning on the date the person remarried or September 1, 1979, whichever date is later, and ending on the last day of the month in which the person is verified as eligible for benefits under this section, provided that the number of months does not exceed 60, and multiply that number of months by \$75; and

- (3) make payable to the eligible person:  
(a) a monthly benefit in the amount specified in Section 824.404;  
and  
(b) a lump sum equal to the amount computed under Subsection  
(2).

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### HOUSE BILL 458 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 458 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 1598 ON SECOND READING

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1598**, Relating to types of credit insurance in loan contracts.

The bill was read second time.

Senator Harris of Tarrant offered the following amendment to the bill:

Amend H.B. 1598 by striking Section 3 of the bill (page 2, lines 13 through 17, Senate Committee Report) and substituting the following:

SECTION 3. Chapter 2, Title 79, Revised Statutes (Article 5069-2.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 2.09 to read as follows:

Art. 2.09. COLLATERAL PROTECTION INSURANCE. (1) In this article:

(a) "Creditor" means a lender or other person extending or collecting a loan or other credit transaction for personal, family, or household use.

(b) "Collateral protection insurance" means any insurance required and arranged by or for a creditor in connection with and subsequent to the inception of a loan or other credit transaction for personal, family, or household use.

(2) Any creditor who causes the initiation of collateral protection insurance must comply with this article as well as other applicable law.

(3) This article shall apply only to insurance for which the premium is required to be paid by the debtor, either directly or indirectly.

(4) When collateral protection insurance is procured, the creditor arranging such transaction shall give written notice to the debtor at the debtor's last known address that:

(a) describes the type of insurance procured, the extent of coverage, and whom it is designed to protect;

(b) defines the policy period by beginning and ending dates;

(c) discloses the total cost to the borrower of the policy;

(d) discloses the annual rate of interest to be charged on the insurance premium if different from the rate charged in the related loan or credit transaction;

(e) discloses the manner in which the premium and interest or other financing charge is to be paid; and

(f) at the option of the creditor, notifies the debtor of other repayment options to which the debtor may agree or has previously agreed to in the original loan or credit transaction agreement.

(5) The creditor may collect the premium and any authorized interest or other financing charge during the policy period in addition to and simultaneously with any scheduled payment or payments of principal or charges or in such other manner as may be provided for in the loan or credit transaction agreement. If there are no payments scheduled on the debt during the policy period, then collection shall be in substantially equal successive monthly installments.

(6) A creditor is authorized to charge the debtor the actual postage and fees paid to the United States Postal Service for mailing the required notice. If the notice is returned to the creditor undelivered, the creditor shall use its normal procedures for locating debtors and mail a second notice when the debtor is located.

SECTION 4. Article 2.09, Title 79, Revised Statutes (Article 5069-2.09, Vernon's Texas Civil Statutes), as added by this Act, is cumulative of and in addition to any other statutory provisions, and in case of any conflict or inconsistency with any provision less favorable to a debtor, Article 2.09, Title 79, Revised Statutes (Article 5069-2.09, Vernon's Texas Civil Statutes), as added by this Act shall prevail and control. Notwithstanding Article 1.10, Title 79, Revised Statutes (Article 5069-1.10, Vernon's Texas Civil Statutes), or other law, a credit union is subject to Article 2.09, Title 79, Revised Statutes (Article 5069-2.09, Vernon's Texas Civil Statutes), as added by this Act.

SECTION 5. This Act takes effect September 1, 1993.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris of Dallas and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### HOUSE BILL 1598 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be

suspended and that **H.B. 1598** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1704 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1704**, Relating to the generation of revenue for the Parks and Wildlife Department by credit card fees and the lease of grazing rights and sale of certain products grown on park lands.

The bill was read second time.

Senator Turner offered the following amendment to the bill:

Amend **H.B. 1704** as follows:

1) Add a new Section 3 to read as follows:

"SECTION 3. TRANSFER OF REAL PROPERTY TO NON-PROFIT CEMETERY IN HOUSTON COUNTY. If the acquisition of property by the Parks and Wildlife Department has prevented the orderly and necessary expansion of a non-profit cemetery in Houston County by surrounding that cemetery, the Department shall transfer one acre of real property to that cemetery so that the public interest may be protected by providing for a proper and respectful resting place for the deceased."

2) Renumber remaining sections accordingly.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1704 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1704** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2005 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2005**, Relating to avoidance of liability by correction of certain violations of state credit law.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2005 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2005** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1852 ON SECOND READING**

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1852**, Relating to the control of outdoor advertising signs; providing penalties.

The bill was read second time.

Senator Rosson offered the following amendment to the bill:

Amend **H.B. 1852** as follows:

On page 1, lines 49 through 51, strike the existing subsection "(i)", and renumber the remaining sections appropriately.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Rosson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1852 ON THIRD READING**

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1852** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**HOUSE BILL 372 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 372**, Relating to peace officers of hospitals in certain municipalities.

The bill was read second time.

Senator Carriker offered the following committee amendment to the bill:

Amend H.B. 372 as follows:

(1) On page 1, strike lines 17 through 19, and insert the following:

"(2) any public street or alley that is contiguous to hospital property but not extending beyond the hospital property."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Carriker and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 372 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 372 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Harris of Dallas in Chair)

#### **HOUSE CONCURRENT RESOLUTION 68 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**H.C.R. 68**, Expressing expectation that Texas public universities use the "College Proficiency Specialization" as a model for minimum admission standards for students entering those institutions by academic year 2005 and thereafter.

The resolution was read second time and was adopted by a viva voce vote.

#### **HOUSE BILL 2833 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2833**, Relating to a change of location of a racetrack and the conversion of a reinstated racetrack license to a perpetual license.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2833 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2833 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2499 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2499**, Relating to prepaid funeral services or merchandise.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2499 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2499** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Montford and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Finance might consider **H.B. 680** today.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Education might consider **H.B. 2249** today.

**SENATE BILL 1434 WITH HOUSE AMENDMENTS**

Senator Moncrief called **S.B. 1434** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Amendment No. 1**

Amend **S.B. 1434** by inserting a new SECTION 1 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 1. Section 2(6), Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes), is amended, and Sections 2(10), (11), and (12) are added, to read as follows:

(6) "Dietetics practice" means the professional discipline of applying and integrating scientific principles of food, nutrition,

biochemistry, physiology, management, and behavioral and social sciences under different health, social, cultural, psychological and economic circumstances to the proper nourishment, care and education of individuals or groups throughout the life cycle to achieve and maintain the health of people. The term includes without limitation the development, management and provision of nutrition [nutritional] services as the primary function of dietetics practice.

(10) "Nutrition services" means:

(a) assessing the nutrition needs of individuals and groups, and determining resources and constraints in the practice;

(b) establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints;

(c) providing nutrition counseling in health and disease;

(d) developing, implementing and managing nutrition care systems;

or

(e) evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services.

(11) "Nutrition assessment" means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical and dietary data to determine nutrient needs and recommend appropriate nutrition intake including enteral and parenteral nutrition.

(12) "Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with cultural background and socioeconomic status."

#### **Amendment No. 2**

Amend S.B. 1434 by inserting a new SECTION 11 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 11. Sections 9(c), Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) To qualify for the licensing examination under this Act, the applicant must:

(1) possess a baccalaureate or post-baccalaureate degree with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management or an equivalent major course of study approved by the board; and

(2) have completed an internship or preplanned, documented, professional experience program in dietetics practice of not less than 900 hours under the supervision of a licensed dietitian or a Registered Dietitian approved by the board."

#### **Amendment No. 3**

Amend S.B. 1434 by inserting a new SECTION 22 thereof, and renumbering the remaining sections accordingly, to read as follows:

"SECTION 22. The Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes), is amended by adding a new Section 18A to read as follows:

Sec. 18A. OFFICIAL SEAL. (a) The board may by rule require that each licensee obtain an authorized seal of the design authorized by the board, bearing the licensee's name and the legend "Licensed Dietitian".

(b) The board may by rule require that formal documentation of nutrition services provided by a licensed dietitian, as determined necessary and appropriate by the board, must include the licensee's seal affixed to the document.

(c) If the board exercises the authority granted by this section, the rules adopted by the board shall authorize a licensed dietitian providing services in a facility licensed under the Health and Safety Code or on behalf of an agency of local, state or federal government, or in such other circumstances as the board determines reasonable and necessary, to maintain a facsimile of the seal of the licensee on file in such facility or with such agency in satisfaction of the requirements of Subsection (b) of this section. Such facsimile of the seal of the licensee shall be maintained on file at all times during which the licensee provides such services.

(d) It shall be unlawful for any person to affix a seal on any document if the license of the licensee named thereon has expired or has been suspended or revoked, unless such license shall have been renewed or reissued.

(e) A violation of this section or the rules adopted by the board pursuant to this section shall subject a licensee to disciplinary action by the board in accordance with this chapter.

(f) Use of a seal authorized by the board by a person not licensed under this Act is a prohibited act under section 15 of this Act and may be punished accordingly."

The amendments were read.

Senator Moncrief moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 1434 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Parker, Shelley, Ellis, and Truan.

#### CONFERENCE COMMITTEE ON HOUSE BILL 2058

Senator Truan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 2058 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on H.B. 2058 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Truan, Chair; Barrientos, Turner, Rosson, and Luna.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 82**

Senator Montford submitted the following Conference Committee Report:

Austin, Texas  
May 12, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 82 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONTFORD  
ARMBRISTER  
BARRIENTOS  
MONCRIEF  
SHELLEY

On the part of the Senate

JUNELL  
ALEXANDER  
BOMER  
MORENO

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the administration, collection, enforcement, and application of, and exemptions from, various taxes and fees; creating offenses and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1

SECTION 1.01. Section 101.003, Tax Code, is amended by amending Subdivisions (8) and (11) and adding Subdivision (12) to read as follows:

(8) "Taxpayer" means a person liable for a tax, fee, assessment, or other amount imposed by a statute or under the authority of a statutory function administered by the comptroller ~~[this title]~~.

(11) "Report" means a tax return, declaration, statement, or other document required to be filed with the comptroller ~~[by a provision of this title]~~.

(12) "Obligation" means the duty of a person to pay a tax, fee, assessment, or other amount or to make, file, or keep a report, certificate, affidavit, or other document.

SECTION 1.02. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0022 to read as follows:

Sec. 111.0022. APPLICATION TO OTHER LAWS ADMINISTERED BY COMPTROLLER. This subtitle and Subtitle A of this title apply to the administration, collection, and enforcement of other taxes, fees, and charges, including penalties, or other financial transactions, that the comptroller is required or authorized to collect or administer under other law, to the extent that the other law does not conflict with this subtitle or Subtitle A of this title.

SECTION 1.03. Subsections (e), (g), and (h), Section 111.021, Tax Code, are amended to read as follows:

(e) A notice under this section that attempts to prohibit the transfer or disposal of an asset possessed or controlled by a bank is ~~[not]~~ effective if ~~[unless]~~ it is delivered or mailed to the principal or any branch office of the bank including any ~~[or the]~~ office of the bank at which the deposit is carried or the credit or property is held.

(g) At any time during the ~~[last 45 days of the]~~ 60-day period as stated in Subdivision (2) of Subsection (d) of this section, the comptroller may levy upon the asset or debt. The levy shall be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the asset or debt shall transfer the asset to the comptroller or pay to the comptroller the amount owed to the delinquent or to the person against whom the unpaid determination is made.

(h) A notice delivered under this section is effective;

(1) at the time of delivery against all property, rights to property, credits, and/or debts involving the delinquent taxpayer which are not at the time of the [such] notice subject to an attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits and/or debts involving the delinquent taxpayer that come into the possession or control of the person served with the notice within the 60-day period provided by Subdivision (2) of Subsection (d) of this section.

SECTION 1.04. Section 111.051, Tax Code, is amended to read as follows:

Sec. 111.051. REPORTS AND PAYMENTS; DUE DATES; METHOD OF PAYMENT. (a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may only set a report or payment date for the state sales and use tax that conflicts with the dates prescribed by Chapter 151 of this code in case of public calamity or natural disaster.

(c) The comptroller may require that all payments from a taxpayer who files tax reports monthly and remits three or more dishonored or insufficient funds checks or drafts within a six-month period be remitted using certified instruments. The comptroller may require that all payments from a taxpayer who files tax reports quarterly and remits three or more dishonored or insufficient funds checks or drafts within an 18-month period

be remitted by using certified instruments. In this subsection, "certified instruments" includes cashier's checks and money orders. The comptroller shall send written notice of a payment restriction under this subsection to the taxpayer at the business address shown on the comptroller's records. A failure to remit a payment by a certified instrument after imposition of the payment restriction by the comptroller is grounds for the suspension and revocation of a permit or license as provided by Section 111.0047 of this code.

SECTION 1.05. Section 111.201, Tax Code, is amended to read as follows:

Sec. 111.201. ASSESSMENT AND REFUND LIMITATION. (a) No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

(b) No refund of any tax imposed by this title may be made by the comptroller after four years after the date that the tax was paid, except on tolling of the statute of limitations for refunds as provided in this title.

SECTION 1.06. Section 151.304, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) A person who holds a permit issued under this chapter and makes a purchase from a person entitled to claim the exemption provided by Subsection (b)(1) of this section shall accrue use tax on the transaction and remit it to the comptroller.

SECTION 1.07. Section 151.316, Tax Code, is amended to read as follows:

Sec. 151.316. AGRICULTURAL ITEMS. (a) The following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
  - (A) ordinarily constitute food for human consumption;
  - (B) are to be sold in the regular course of business; or
  - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
  - (A) food for human consumption;
  - (B) feed for animal life; or
  - (C) other agricultural products to be sold in the regular course of business;
- (7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:
  - (A) food for human consumption;
  - (B) grass;

(C) feed for animal life; or  
(D) other agricultural products to be sold in the regular course of business;

(8) machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing the producer's own products; and

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures.

(b) Tangible personal property sold or used to be installed as a component of an underground irrigation system is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the production of:

(1) food for human consumption;

(2) grass;

(3) feed or forage for:

(A) animal life the products of which ordinarily constitute food for human consumption; or

(B) horses, mules, and work animals; or

(4) other agricultural products to be sold in the regular course of business.

SECTION 1.08. Subchapter L, Chapter 151, Tax Code, is amended by adding Section 151.7031 to read as follows:

Sec. 151.7031. FAILURE TO REPORT ON THREE OR MORE OCCASIONS: CIVIL PENALTY. A person who is required to file a report under this chapter, who fails to file the report under this chapter, and who has on two or more previous occasions failed to file a timely report under this chapter shall pay an additional penalty of \$50. The penalty provided by this section is assessed without regard to whether the taxpayer subsequently files the report or whether no taxes were due from the taxpayer for the reporting period under the required report.

SECTION 1.09. Section 151.707, Tax Code, is amended to read as follows:

Sec. 151.707. RESALE OR EXEMPTION CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person;

(1) intentionally or knowingly makes a false entry in, or a fraudulent alteration of, an exemption or resale certificate;

(2) makes, presents, or uses an exemption certificate or resale certificate with knowledge that it is false and with the intent that it be accepted as a valid resale or exemption certificate; or

(3) intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate or unreasonably impedes the availability of an exemption or resale certificate [gives a resale certificate to a seller for property that the person knows, at the time of purchase, is purchased for the purpose of use and not for the purpose of resale, lease, or rental by the person to another in the regular course of business or for transfer as an integral part of a taxable service performed in the regular course of business].

(b) An offense under Subsection (a)(1) or (a)(2) of this section is:  
(1) a Class C misdemeanor if the tax avoided by the use of the exemption or resale certificate is less than \$20;  
(2) a Class B misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$20 or more, but less than \$200;  
(3) a Class A misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$200 or more, but less than \$750;  
(4) a felony of the third degree if the tax avoided by the use of the exemption or resale certificate is \$750 or more, but less than \$20,000;  
or

(5) a felony of the second degree if the tax avoided by the use of the exemption or resale certificate is \$20,000 or more. [An offense under this section is a misdemeanor punishable by a fine of not more than \$500.]

SECTION 1.10. Subchapter A, Chapter 153, Tax Code, is amended by adding Section 153.0061 to read as follows:

Sec. 153.0061. SUMMARY SUSPENSION OF PERMIT. (a) The comptroller may suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder, or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears on the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If the notice is served in person, the permit holder shall immediately surrender the permit to the comptroller or to the comptroller's representative. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 153.006, governing hearings for permit cancellation or refusal to issue a permit under this chapter, governs a final administrative hearing under this section.

SECTION 1.11. Section 153.007, Tax Code, is amended to read as follows:

Sec. 153.007. ENFORCEMENT OF PERMIT CANCELLATION, SUSPENSION, OR REFUSAL. (a) The comptroller may examine any books and records incident to the conduct of the business of a person whose permit has been canceled or suspended on the person's failure to file the reports required by this chapter or to remit all taxes due. The comptroller shall issue an audit deficiency determination of the amount of delinquent taxes, penalties, and interest, containing a demand for payment. The deficiency determination shall provide that if neither a payment is made nor a request for a redetermination is filed within 30 days after the date of the notice of the deficiency, the amount of the determination becomes due and payable. If the amount is not paid on or before the 44th day after service of the notice of the deficiency determination, the bond or other security required under this chapter shall be forfeited. The demand for payment shall be addressed to both the surety or sureties and the person who owes the delinquency.

(b) If the forfeiture of the bond or other security does not satisfy the delinquency, the comptroller shall certify the taxes, penalty, and interest delinquent to the attorney general, who may file suit against the person or his surety or both to collect the amount due. After being given notice of an order of cancellation or summary suspension, it shall be unlawful for any person to continue to operate his business under a canceled or suspended permit. The attorney general may file suit to enjoin the person from continuing to operate under his permit until the person's permit is reissued by the comptroller.

(c) An appeal from an order of the comptroller canceling or suspending or refusing the issuance or reissuance of a permit may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits, except that:

(1) an appeal must be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;

(2) the trial of the case shall begin within 10 days after its filing; and

(3) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

SECTION 1.12. Section (1), Article 8802, Revised Statutes, is amended to read as follows:

(1) Every "owner", save an owner holding an import license and holding coin-operated machines solely for re-sale, who exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 8801, except as are exempt herein, an annual occupation tax of \$60.00. The tax shall be paid to the comptroller by cashier's check or money order. The annual tax levied by this chapter may be collected by the comptroller on a quarterly basis. The comptroller may establish procedures for quarterly collection and set due dates for the tax payments. The tax due from the owner of a

coin-operated machine first exhibited or displayed in this State later than March 31 shall be prorated on a quarterly basis, with one-fourth of the annual tax due for each quarter or portion of a quarter remaining in the calendar year. No refund or credit of the annual tax levied by this chapter may be allowed to any owner who ceases the exhibition or display of any coin-operated machine prior to the end of any calendar year. Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of the taxes, ~~penalties, and interest~~ imposed by this chapter.

SECTION 1.13. Section (2), Article 8807, Revised Statutes, is amended to read as follows:

(2) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Chapter or any rule and regulation promulgated hereunder, the Comptroller may investigate the violation and may impose ~~seek~~ sanctions, including suspension or revocation of a license, permit, or registration certificate issued under this chapter.

SECTION 1.14. Article 8811, Revised Statutes, is amended to read as follows:

Art. 8811. VIOLATIONS OF ACT; PENALTY; ENFORCEMENT ~~[SUIT TO RECOVER PENALTY]~~. If any "owner" of a coin-operated machine within this State shall (a) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said permit being permanently attached thereto, or (b) if any person shall exhibit or display within this State any coin-operated machine without having annexed or attached thereto a permit issued by the Comptroller showing the payment of the tax due thereon for the current year, or (c) if any person exhibits or displays a coin-operated machine that is not registered with the Comptroller, or (d) shall fail to keep such records, or (e) shall refuse or fail to present such records for inspection upon the demand of the Comptroller or an authorized representative of the Comptroller, or (f) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (g) mislead the Comptroller or an authorized representative of the Comptroller in the enforcement of this Chapter, or (h) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (i) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller, or violate the same, the Comptroller in addition to the other remedies provided in this Chapter may assess a penalty in the sum of not less than Fifty Dollars (\$50) ~~Five Dollars (\$5)~~ nor more than Two Thousand Dollars (\$2,000) ~~Five Hundred Dollars (\$500)~~. Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid may be recovered by the Comptroller in any manner available for the recovery of delinquent taxes under Subtitle B, Title 2, Tax Code, or in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas; ~~or any court having jurisdiction~~.

SECTION 1.15. Subdivision (2), Section 8, Article 8817, Revised Statutes, is amended to read as follows:

(2) A person who knowingly violates Subdivision (1) of this Section is guilty of a Class ~~A~~ [B] misdemeanor. A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation, or subterfuge is guilty of a felony of the second [third] degree.

SECTION 1.16. Section 17, Article 8817, Revised Statutes, is amended to read as follows:

Sec. 17. REMOVAL OF PERMIT PROHIBITED; PENALTY. (1) A person may not [~~intentionally~~] remove or cause to be removed a current tax permit from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a Class ~~B~~ [C] misdemeanor.

SECTION 1.17. Subdivision (1), Section 20, Article 8817, Revised Statutes, is amended to read as follows:

(1) The Comptroller may refuse to issue or renew a license or registration certificate or may revoke or suspend a license or registration certificate issued pursuant to the authority of this Article if:

(a) the licensee or applicant has [~~intentionally~~] violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee or applicant has [~~intentionally~~] failed to answer a question, or [~~intentionally~~] made a false statement in, or in connection with, his application or renewal;

(c) the licensee or applicant extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee or applicant uses coercion to accomplish a purpose or to engage in conduct regulated by the Comptroller;

(e) a contract or agreement between the licensee or applicant and a location owner contains a restriction, of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article; or

(f) failure to suspend or revoke the license would be contrary to the intent and purpose of this Article.

SECTION 1.18. Article 8817, Revised Statutes, is amended by adding Section 27 to read as follows:

Sec. 27. SUITS BY THE ATTORNEY GENERAL. (1) On request by the Comptroller, the attorney general may file suit for an injunction prohibiting a person from engaging in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, maintain, service, transport within the state, store, or import a music coin-operated machine or a skill or pleasure coin-operated machine without a license or registration certificate issued under this Article.

(2) The district courts of Travis County, Texas, have exclusive, original jurisdiction of a suit brought under this section.

SECTION 1.19. The following provisions of the Tax Code are repealed:

(1) Section 151.502; and

(2) Section 151.706.

SECTION 1.20. This article takes effect September 1, 1993, and applies to the collection and enforcement of taxes imposed before, on, or after the effective date of this article.

#### ARTICLE 2

SECTION 2.01. Section 151.401, Tax Code, is amended to read as follows:

Sec. 151.401. TAX DUE DATES. (a) The taxes imposed by this chapter on the sale, use, storage, or other consumption of taxable items on or after August 1 and on or before August 15 are due and payable on or before August 20 by a taxpayer who pays by electronic funds transfer unless:

- (1) the taxpayer qualifies as a quarterly filer under Subsection (c);
- (2) the taxpayer prepays the tax quarterly as permitted by Section 151.424; or
- (3) the comptroller waives the requirement for all affected taxpayers.

(b) The taxes imposed by this chapter other than those described by Subsection (a) are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (c) [(b) of this section] or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 [of this code].

(c) [(b)] If a taxpayer owes less than \$500 for a calendar month or \$1,500 for a calendar quarter, the taxes are due and payable on the 20th day of the month following the end of the calendar quarter.

SECTION 2.02. Section 151.402, Tax Code, is amended to read as follows:

Sec. 151.402. TAX REPORT DATES. (a) Except as provided by Subsection (b) of this section, a [A] tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401 of this code.

(b) A tax report for taxes required by Section 151.401(a) to be paid on or before August 20 is due on or before the 20th day of the following month.

SECTION 2.03. Section 171.202, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(c) The comptroller shall grant an extension of time to a corporation that is not required by rule to make its tax payments by electronic funds transfer for the filing of a report required by this section to any date on or before the next November 15, if a corporation:

- (1) requests the extension, on or before May 15, on a form provided by the comptroller; and
- (2) remits with the request:

(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before November 15; or

(B) 100 percent of the tax paid in the previous year.

(d) In the case of a taxpayer whose previous return was its initial report, the optional payment provided under Subsection (c)(2)(B) or

~~(e)(2)(B) [Paragraph (B) of Subdivision (2) of Subsection (c) of this section] must be equal to the greater of:~~

~~(1) an amount produced by multiplying the net taxable capital, as required to be shown on the initial report, by the rate of tax in Section 171.002(a)(1) which is effective January 1 of the year in which the report is due; or~~

~~(2) the amount paid on net taxable earned surplus, as required on the initial report.~~

~~(e) The comptroller shall grant an extension of time for the filing of a report required by this section by a corporation required by rule to make its tax payments by electronic funds transfer to any date on or before the next August 15, if the corporation:~~

~~(1) requests the extension, on or before May 15, on a form provided by the comptroller; and~~

~~(2) remits with the request:~~

~~(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before August 15; or~~

~~(B) 100 percent of the tax paid in the previous year.~~

~~(f) The comptroller shall grant an extension of time to a corporation required by rule to make its tax payments by electronic funds transfer for the filing of a report due on or before August 15 to any date on or before the next November 15, if the corporation:~~

~~(1) requests the extension, on or before August 15, on a form provided by the comptroller; and~~

~~(2) remits with the request the difference between the amount remitted under Subsection (e) and 100 percent of the amount of tax reported as due on the report filed on or before November 15.~~

~~(g) If an amount paid pursuant to Subsection (f)(2) is no more than 10 percent less than the amount reported as due on the report filed on or before November 15, no penalty shall be due for the underpayment.~~

~~(h) If the sum of the amounts paid under Subsections (e)(2) and (f)(2) is at least 99 percent of the amount reported as due on the report filed on or before November 15, penalties for underpayment with respect to the amount paid under Subsection (e)(2) are waived.~~

SECTION 2.04. (a) This article takes effect September 1, 1994.

(b) Section 2.01 of this article applies only to the payment of taxes that are due and payable on or after the effective date of this article. Section 2.01 of this article expires January 1, 1996.

(c) Section 2.03 of this article applies only to the extension of an annual report required by Section 171.202, Tax Code, to be filed on or after the effective date of this article.

### ARTICLE 3

SECTION 3.01. Subchapter F, Chapter 153, Tax Code, is amended by adding Section 153.5015 to read as follows:

Sec. 153.5015. DELAY IN ALLOCATION OF TAXES.

(a) Notwithstanding any other law, the comptroller shall allocate and deposit as soon as practicable after September 5, 1995, and no later than September 10, 1995:

(1) the unclaimed refunds of gasoline taxes under Section 153.502 for June, July, and August, 1995;

(2) the gasoline taxes collected under Subchapter B for June, July, and August, 1995;

(3) the diesel fuel taxes collected under Subchapter C for June, July, and August, 1995; and

(4) the liquefied gas taxes collected under Subchapter D for June, July, and August, 1995.

(b) This section expires October 1, 1995.

SECTION 3.02. This article takes effect September 1, 1993.

#### ARTICLE 4

SECTION 4.01. Chapter 31, Human Resources Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING FINANCIAL ASSISTANCE

Sec. 31.071. DEFINITION. In this subchapter, "wages" has the meaning assigned by Sections 51(c)(1), (2), and (3), Internal Revenue Code of 1986 (26 U.S.C. Section 51).

Sec. 31.072. TAX REFUND VOUCHER. (a) The department shall issue a tax refund voucher in the amount allowed by this subchapter and subject to the restrictions imposed by this subchapter to a person that meets the eligibility requirements under this subchapter.

(b) A person issued a tax refund voucher may, subject to the provisions of this subchapter, apply for the amount of the refund of a tax that is paid by the person to this state if the tax is administered by the comptroller and deposited to the credit of the general revenue fund without dedication.

Sec. 31.073. AMOUNT OF REFUND; LIMITATION. (a) The amount of the refund allowed under this subchapter is equal to 20 percent of the total wages, up to a maximum of \$10,000 in wages for each employee, paid or incurred by a person for services rendered by an employee of the person during the period beginning with the date the employee begins work for the person and ending on the first anniversary of that date.

(b) The refund claimed for a calendar year may not exceed the amount of net tax paid by the person to this state, after any other applicable tax credits, in that calendar year.

Sec. 31.074. ELIGIBILITY. A person is eligible for the refund for wages paid or incurred by the person, during each calendar year for which the refund is claimed, only if:

(1) the wages paid or incurred by the person are for services of an employee who is:

(A) a resident of this state; and

(B) a recipient of financial assistance and services in accordance with this chapter;

(2) the person satisfies the certification requirements under Section 31.075; and

(3) the person provides and pays for the benefit of the employee at least 80 percent of the cost of major medical health insurance coverage that provides for:

(A) a maximum \$300 deductible to the employee; and  
(B) payment by the insurance provider of at least 70  
percent of insurance claims during the claim year in excess of the  
deductible.

Sec. 31.075. CERTIFICATION. A person is not eligible for the refund  
for wages paid or incurred by the person unless the person has received  
a written certification from the appropriate state agency responsible for  
certification that the employee is a recipient of financial assistance and  
services on or before the day the employee begins employment with the  
person.

Sec. 31.076. APPLICATION FOR REFUND: ISSUANCE. (a) A  
person may apply for a tax refund voucher for wages paid an employee in  
a calendar year only on or after January 1 and before April 1 of the  
following calendar year.

(b) The department shall promulgate a form for the application for the  
tax refund voucher. A person must use this form in applying for the  
refund.

(c) On issuance of the tax refund voucher to the person by the  
department, the person may apply the voucher against a tax paid by the  
person to this state only for the calendar year for which the voucher is  
issued.

SECTION 4.02. Subchapter C, Chapter 111, Tax Code, is amended by adding Section 111.109 to read as follows:

Sec. 111.109. TAX REFUND FOR WAGES PAID TO EMPLOYEE  
RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN. The  
comptroller shall issue a refund for a tax paid by a person to this state in  
the amount of a tax refund voucher issued by the Texas Department of  
Human Services under Subchapter D, Chapter 31, Human Resources Code,  
subject to the provisions of that subchapter.

SECTION 4.03. (a) This article takes effect January 1, 1994.

(b) A person may claim the refund under Subchapter D, Chapter 31, Human Resources Code, as added by this article, only for any wages paid or incurred on or after the effective date of this article and only on a tax due on or after that date.

## ARTICLE 5

SECTION 5.01. Section 156.001, Tax Code, is amended to read as follows:

Sec. 156.001. DEFINITION [DEFINITIONS]. In this chapter, "hotel":

[(1) "Hotel"] means a building in which members of the public  
obtain sleeping accommodations for consideration. The term includes a  
hotel, motel, tourist home, tourist house, tourist court, lodging house, inn,  
or rooming house, but does not include a hospital, sanitarium, or nursing  
home.

[(2) "Quarterly period" means a quarter of the calendar year. The  
first quarter is composed of the months of January, February, and March;  
the second quarter is composed of the months of April, May, and June; the  
third quarter is composed of the months of July, August, and September;  
and the fourth quarter is composed of the months of October, November,  
and December.]

SECTION 5.02. Section 156.151, Tax Code, is amended to read as follows:

Sec. 156.151. REPORT AND PAYMENT. (a) ~~A [On the last day of January, April, July, and October, a]~~ person required to collect the tax imposed by this chapter shall pay the comptroller the tax collected during the preceding ~~reporting [quarterly]~~ period and at the same time shall file with the comptroller a report stating:

(1) the total amount of the payments made for rooms at the person's hotel during the preceding ~~reporting [quarterly]~~ period;

(2) the amount of the tax collected by the person during the preceding ~~reporting [quarterly]~~ period; and

(3) other information that the comptroller requires to be in the report.

(b) Except as provided by Subsection (c), each calendar month is a reporting period and the taxes imposed by and collected under this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month.

(c) If a taxpayer owes less than \$500 for a calendar month or \$1,500 for a calendar quarter, the taxpayer qualifies as a quarterly filer having a reporting period of a calendar quarter and the taxes are due and payable on the 20th day after the end of the calendar quarter.

SECTION 5.03. Section 156.153, Tax Code, is amended to read as follows:

Sec. 156.153. REIMBURSEMENT FOR TAX COLLECTION. The person required to file a report under this chapter may deduct and withhold from the taxes otherwise due to the state on the ~~monthly or~~ quarterly return, as reimbursement for the cost of collecting the tax, one percent of the amount of the tax due as shown on the report. If taxes due under this chapter are not paid to the state within the time required or if the person required to file a report fails to file the report when due, the person forfeits the claim to reimbursement that could have been taken if the tax had been paid or the report filed when due.

SECTION 5.04. This article takes effect October 1, 1994.

#### ARTICLE 6

SECTION 6.01. Subsection (b), Section 6, Article 4.10, Insurance Code, is amended to read as follows:

(b) A ~~semiannual [quarterly]~~ prepayment of premium tax must be made on March 1st ~~and August 1st~~ [~~May 15th, August 15th, and November 15th~~] by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal ~~one-half [one-fourth]~~ of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the ~~semiannual [quarterly]~~ payment shall equal the tax which would be owed on ~~the aggregate of the gross premium receipts for [during] the two previous calendar quarters [quarter ending March 31st, June 30th, September 30th, or December 31st]~~ at the minimum tax rate specified by law. The State Board of Insurance is authorized to certify for refund to the State Treasurer any overpayment of premium taxes that results from the ~~semiannual [quarterly]~~ prepayment system herein established.

SECTION 6.02. Subsection (a), Section 13, Article 4.11, Insurance Code, is amended to read as follows:

(a) A ~~semiannual~~ [quarterly] prepayment of premium tax must be made on March 1 ~~and August 1~~ [, May 15, August 15, and November 15] by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal ~~one-half~~ [one-fourth] of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the ~~semiannual~~ [quarterly] payment shall equal the tax which would be owed on ~~the aggregate of~~ the gross premium receipts ~~for~~ [during] the ~~two~~ previous calendar ~~quarters~~ [quarter ending March 31, June 30, September 30, or December 31] at the minimum tax rate specified by law. The State Board of Insurance is authorized to certify for refund to the state treasurer any overpayment of premium taxes that results from the ~~semiannual~~ [quarterly] prepayment system herein established.

SECTION 6.03. Subsection (b), Section 3, Article 9.59, Insurance Code, is amended to read as follows:

(b) A ~~semiannual~~ [quarterly] prepayment of premium tax must be made on March 1 ~~and August 1~~ [, May 15, August 15, and November 15] by all insurers with net tax liability for the previous calendar year of more than \$1,000. The tax paid on each date must equal ~~one-half~~ [one-fourth] of the total premium tax paid for the previous calendar year. If no premium tax has been paid during the previous calendar year, the ~~semiannual~~ [quarterly] payment shall equal the tax that would be owed on ~~the aggregate of~~ the gross premium receipts ~~for~~ [during] the ~~two~~ previous calendar ~~quarters~~ [quarter ending March 31, June 30, September 30, or December 31] at the minimum tax rate specified by law. The commissioner may certify for refund to the state treasurer any overpayment of premium taxes that results from the ~~semiannual~~ [quarterly] prepayment system established by this subsection.

SECTION 6.04. Article 9.46, Insurance Code, is amended to read as follows:

Art. 9.46. MAINTENANCE FEE; DISPOSITION OF UNEXPENDED BALANCE [TAX ON GROSS PREMIUMS]. The State of Texas by and through the State Board of Insurance shall ~~charge an annual maintenance fee necessary to pay the expenses of the regulation of title insurers and title insurance agents during the succeeding year. The State Board of Insurance shall determine the rate of assessment and collect a maintenance fee in an amount not to exceed one percent of all amounts defined to be premium in this chapter. This fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes [annually determine the rate of assessment on an annual or semiannual basis, as determined by the Board, and collect a maintenance tax in an amount not to exceed one percent of the correctly reported gross title insurance premiums of all authorized insurers writing title insurance in this state. The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article].~~ The State Board of Insurance, after taking into account the unexpended funds produced by this ~~fee~~ [tax], if any, shall adjust the rate of assessment each

year to produce the amount of funds that it estimates will be necessary to pay all the expenses of regulating title insurance during the succeeding year. The ~~fees~~ [taxes] collected shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund and shall be spent as authorized by legislative appropriation only on warrants issued by the comptroller of public accounts pursuant to duly certified requisitions of the State Board of Insurance. The fee is included in the division of premiums and shall not be separately charged to the title insurance agent. The State Board of Insurance shall ~~may elect to~~ collect on a semiannual basis the ~~fee~~ [tax] assessed under this article only from insurers whose [tax] liability under this article for the previous [tax] year was \$2,000 or more. The State Board of Insurance may prescribe and adopt reasonable rules to implement such payments as it deems advisable, not inconsistent with this article.

SECTION 6.05. This article takes effect September 1, 1993. Sections 6.01, 6.02, and 6.03 apply only to the prepayment of premium taxes beginning with prepayments that become due on or after March 1, 1994. Prepayment of premium taxes before March 1, 1994, is governed by the law as it existed immediately before the effective date of this article and that law is continued in effect for that purpose.

#### ARTICLE 7

SECTION 7.01. Subsection (a), Section 112.052, Tax Code, is amended to read as follows:

(a) A person may bring suit against the state to recover an occupation, ~~excise~~, gross receipts, franchise, license, or privilege tax or fee required to be paid to the state if the person has first paid the tax under protest as required by Section 112.051 of this code.

SECTION 7.02. Subsection (a), Section 112.058, Tax Code, is amended to read as follows:

(a) Except as provided in Subsections (b) and (c) of this section, payments made under protest are to be handled as follows:

(1) An officer who receives payments made under protest as required by Section 112.051 of this code shall each day send to the treasurer the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(2) The treasurer shall, immediately on receipt, credit the payments to each fund to which the tax or fee paid under protest is allocated by law ~~[the suspense account in accordance with Section 404.062(c), Government Code, and deposit the payments in state depositories bearing interest in the same manner that other funds are required to be placed in state depositories at interest].~~

(3) The treasurer shall maintain detailed records of payments made under protest ~~[allocate the interest earned on these funds and credit the amount allocated to the suspense account until the status of the funds is finally determined].~~

(4) A payment under protest ~~[that is placed in a fund or an account other than a suspense account]~~ bears pro rata interest. The pro rata interest is the amount of interest that would be due if the amount had been placed in the suspense account of the treasurer.

SECTION 7.03. Section 112.059, Tax Code, is amended to read as follows:

Sec. 112.059. DISPOSITION OF PROTEST PAYMENTS BELONGING TO THE STATE. If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax payment or a portion of a tax payment made under protest, including the pro rata amount of interest earned on the payment, belongs to the state, the treasurer shall ensure that [transfer] the proper amount has been deposited [from the suspense account] to the credit of the appropriate state fund.

SECTION 7.04. Subsection (c), Section 112.060, Tax Code, is amended to read as follows:

(c) Each tax refund warrant shall be drawn against each fund to which the taxes paid under protest are allocated by law [the suspense account]. If there are not sufficient funds in each fund to which the taxes paid under protest are allocated by law [the suspense account] to pay a refund required to be paid under Subsection (a) of this section, then the comptroller shall draw the warrant against the General Revenue Fund or other funds from which refund appropriations may be made, as the comptroller determines appropriate.

SECTION 7.05. Subsection (d), Section 112.101, Tax Code, is amended to read as follows:

(d) The public official shall deliver a payment or bond required by Subsection (a)(2) to the treasurer. The treasurer shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law. A payment made under Subsection (a)(2)(A) bears pro rata interest. The pro rata interest is the amount of interest that would be due if the amount had been placed into the suspense account of the treasurer.

SECTION 7.06. Subsection (a), Section 112.104, Tax Code, is amended to read as follows:

(a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 112.101(a)(2)(B) of this code, the applicant shall pay to [into the suspense account of] the treasurer all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent. The treasurer shall credit the payment to each fund to which the tax, fee, or penalty is allocated by law.

SECTION 7.07. Subsection (a), Section 112.106, Tax Code, is amended to read as follows:

(a) If a restraining order or injunction is finally dismissed or dissolved, the treasurer shall:

(1) if a bond was filed, make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state; or

(2) if no bond was filed, ensure that [transfer] the proper amount of taxes, fees, and penalties has been deposited [from the suspense account] to the credit of the proper fund to which the taxes, fees, and penalties are allocated.

SECTION 7.08. Section 112.107, Tax Code, is amended to read as follows:

Sec. 112.107. CREDIT OR REFUND. If the final judgment in a suit under this subchapter maintains the right of the applicant for a temporary or permanent injunction to prevent the assessment or collection of the tax, the treasurer shall credit the money deposited ~~[in the suspense account]~~ under this subchapter, with the pro rata interest earned on the money, against any other amount finally determined to be due to the state from the applicant according to information in the custody of the treasurer and shall refund the remainder to the applicant.

SECTION 7.09. Subsection (a), Section 403.202, Government Code, is amended to read as follows:

(a) If a person who is required to pay to any department of the state government an occupation, excise, gross receipts, franchise, license, or privilege tax or fee, other than a tax or fee to which Subchapter B, Chapter 112, Tax Code, applies or a tax or other amount imposed under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

SECTION 7.10. Subsection (a), Section 403.203, Government Code, is amended to read as follows:

(a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee covered by this subchapter and required to be paid to the state if the person has first paid the tax under protest as required by Section 403.202.

SECTION 7.11. Subsection (d), Section 403.212, Government Code, is amended to read as follows:

(d) A state official who receives a payment or bond under Subsection (a)(2) shall deliver the payment or bond to the treasurer. The treasurer shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law ~~[into the suspense account of the treasurer]~~.

SECTION 7.12. On the effective date of this article the state treasurer shall transfer all protested or contested amounts received under Subsection (a), Section 112.058, or Subsection (d), Section 112.101, Tax Code, or Subsection (d), Section 403.212, Government Code, that are in a suspense account, including accrued interest on the amounts, to the credit of each appropriate fund to which the taxes, fees, or penalties being protested or contested are allocated by law.

SECTION 7.13. This article takes effect September 1, 1993.

#### ARTICLE 8

SECTION 8.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was filed with the Secretary of the Senate.

#### **HOUSE BILL 2516 REREFERRED**

On motion of Senator Brown and by unanimous consent, **H.B. 2516** was withdrawn from the Committee on Finance and was rereferred to the Committee on Natural Resources.

#### **HOUSE BILL 2529 REREFERRED**

On motion of Senator Henderson and by unanimous consent, **H.B. 2529** was withdrawn from the Committee on Criminal Justice and was rereferred to the Committee on Jurisprudence.

#### **SENATE RULE 11.19 SUSPENDED (Posting Rule)**

On motion of Senator Sims and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Natural Resources might consider the following bills tomorrow:

**H.B. 2516  
H.B. 1970  
H.B. 2869**

#### **NOTICE OF SESSION TO HOLD LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Haley announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks.

On motion of Senator Haley and by unanimous consent, Senate Rule 9.03(b) was suspended to give notice that a Local and Uncontested Bills Calendar would be held 10 minutes after recess today and that all bills would be considered on second reading in the order in which they are listed.

#### **MOTION TO ADJOURN**

On motion of Senator Truan and by unanimous consent, the Senate agreed that, upon completion of the Local and Uncontested Bills Calendar, the Senate would adjourn until 10:30 a.m. tomorrow.

#### **RECESS**

On motion of Senator Truan, the Senate at 12:24 p.m. recessed until 12:34 p.m. today for the Local and Uncontested Bills Calendar.

#### **AFTER RECESS**

The Senate met at 12:34 p.m. and was called to order by Senator Haley.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
May 19, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 387**, Relating to the suspension of the driver's privileges of a person convicted of certain offenses or adjudicated as having engaged in certain conduct. (As substituted)

**H.B. 2402**, Relating to incentives for the recycling or proper disposal of lead-acid batteries; providing civil penalties.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

**C.S.S.B. 999** (Patterson) Relating to the prevention and mitigation of coastal erosion. (31-0) (31-0)

**C.S.S.B. 1411** (Zaffirini) Relating to zoning around certain sites in Kinney County; providing penalties. (31-0) (31-0)

**S.B. 1476** (Patterson) Relating to terms of office of members of the board of commissioners of the Brazoria County Conservation and Reclamation District Number Three. (31-0) (31-0)

**H.B. 78** (Brown) Relating to the application of the open meetings law to certain municipal boards, commissions and committees. (31-0) (31-0)

**H.B. 84** (Shapiro) Relating to the disposal of certain authorized emergency vehicles; providing a penalty. (31-0) (31-0)

Senator Shapiro offered the following committee amendment to the bill:

Amend **H.B. 84** by striking SECTION 3 and replacing it with a new SECTION 3 to read as follows:

SECTION 3. NONAPPLICABLE. Section 2 of this Act does not apply if the owner of the authorized emergency vehicle transfers ownership of the vehicle to:

(1) a person who holds a license as an emergency medical services provider under Chapter 773, Health and Safety Code.

(2) a person who is in the business of buying and selling used vehicles in this state and specializes in authorized emergency vehicles, or

(3) an entity described in Section 2 (d), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), or to similar entities operating in foreign countries.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**H.B. 130** (Ratliff) Relating to the disposal of solid waste in certain landfills. (31-0) (31-0)

**H.B. 392** (Armbrister) Relating to justice court juries and to the penalty for filing a false claim of exemption from jury service. (31-0) (31-0)

**H.B. 515** (Rosson) Relating to a review of child development training agreements. (31-0) (31-0)

**H.B. 565** (Luna) Relating to exceptions to the requirement that elections be held on uniform election dates. (31-0) (31-0)

**H.B. 603** (Carriker) Relating to the admission of foreign exchange students to the public free schools. (31-0) (31-0)

**C.S.H.B. 670** (Whitmire) Relating to the payment date of a utility bill for an elderly person. (31-0) (31-0)

**H.B. 829** (Sibley) Relating to requiring a report from the General Services Commission about certain purchasing contracts awarded to nonresident bidders. (31-0) (31-0)

**H.B. 1153** (Whitmire) Relating to the location of certain utility rate hearings. (31-0) (31-0)

**H.B. 1226** (Sims) Relating to exemptions from dog and cat sterilization requirements for animal pounds, shelters, and humane organizations in certain counties. (31-0) (31-0)

**H.B. 1408** (Madla) Relating to the sale or lease of computer software by certain municipalities. (31-0) (31-0)

**H.B. 1686** (Shapiro) Relating to a pilot program for the inclusion of students with disabilities in the regular classroom. (31-0) (31-0)

**H.B. 1735** (Armbrister) Relating to the appraisal of certain property for ad valorem tax purposes. (31-0) (31-0)

**H.B. 1779** (Wentworth) Relating to the 225th District Court. (31-0) (31-0)

**H.B. 1967** (Armbrister) Relating to the authority of a county to hold a nonbinding referendum on matters affecting county property. (31-0) (31-0)

**H.B. 2209** (Brown) Relating to the Harris-Galveston Coastal Subsidence District. (31-0) (31-0)

**H.B. 2460** (Zaffirini) Relating to the exclusion of nonirrigated or nonirrigable property located within the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1. (31-0) (31-0)

**H.B. 2493** (Sibley) Relating to the enforcement of seed inspection and labeling requirements. (31-0) (31-0)

**BILL REMOVED FROM  
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
<b>H.B. 2053</b>	Parker, Haley

**CONCLUSION OF SESSION FOR  
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

**MEMORIAL RESOLUTION**

**H.C.R. 129** - (Wentworth): In memory of Marian Anderson.

**CONGRATULATORY RESOLUTIONS**

**H.C.R. 137** - (Ellis): Recognizing The University of Texas M. D. Anderson Cancer Center for its leadership and dedication to hastening the time when cancer can be eliminated as a major health threat for Texans.

**S.R. 970** - By Henderson: Commending the founding fathers and mothers of the Texas Junior State for their drive and determination in achieving statehood.

**S.R. 971** - By Henderson: Commending Bobbie Jo Choice Shephard for being selected as the 1993 Humanitarian of the Year by The Accomplishers, a group of Christians from various churches in Houston and the surrounding area.

**S.R. 972** - By Henderson: Congratulating Brett O'Neil of Spring on achieving the rank of Eagle Scout.

**S.R. 973** - By Henderson: Congratulating Mr. and Mrs. Stan Weiss on the occasion of their 50th wedding anniversary.

**S.R. 974** - By Sibley: Commending Dr. Maurice W. Roney for his years of service in the field of vocational-technical education and on the dedication of the new Maurice W. Roney Teaching Center in Waco.

**S.R. 975** - By Moncrief: Congratulating Andrew Peter Noonan on achieving the rank of Eagle Scout.

**S.R. 976** - By Moncrief: Commending John A. Widner on his 25 years of service to the Day Care Association of Fort Worth and Tarrant County and to the citizens of Texas.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 12:44 p.m. adjourned until 10:30 a.m. tomorrow.

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**APPENDIX**

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**REPORTS OF STANDING COMMITTEES**

The following committee reports were received by the Secretary of the Senate:

May 19, 1993

HEALTH AND HUMAN SERVICES — H.B. 1345, H.B. 1483, H.B. 2109, H.B. 2650, C.S.H.B. 779, C.S.H.B. 1217, C.S.H.B. 1713, C.S.H.B. 2394

ECONOMIC DEVELOPMENT — H.B. 1144, H.B. 1544 (Amended), H.B. 113, H.B. 937, H.B. 1674, H.B. 1213, C.S.H.B. 431

CRIMINAL JUSTICE — C.S.H.B. 1808

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY — H.B. 2413 (Amended)

ECONOMIC DEVELOPMENT — C.S.S.B. 1149, S.B. 900

## SENT TO COMPTROLLER

(May 19, 1993)

S.B. 857

## SENT TO GOVERNOR

(May 19, 1993)

S.B. 128	S.B. 686
S.B. 149	S.B. 851
S.B. 466	S.B. 907
S.B. 526	S.B. 1310
S.B. 572	S.B. 1385
S.B. 579	S.B. 1403

## SEVENTY-FIRST DAY

(Thursday, May 20, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Our Father, help us to begin this day and every day conscious of Thy presence and Thy grace. Bless, we pray, the Members and the leadership today and may Thy spirit continue to encourage and lead them as they serve the needs of our state. We offer this